TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 423

ISABELLA F. BLACKSTONE, INDIVIDUALLY AND AS EXECUTRIX OF THE LAST WILL AND TESTAMENT OF TIMOTHY B. BLACKSTONE, DECEASED, PLAINTIFF IN ERROR,

vs.

NATHAN L. MILLER, COMPTROLLER OF THE STATE OF NEW YORK, AND EDWARD M. GROUT, COMPTROLLER OF THE CITY OF NEW YORK.

IN ERROR TO THE SURROGATE'S COURT OF NEW YORK COUNTY, STATE OF NEW YORK.

FILED AUGUST 12, 1902.

(18,651.)

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a The People of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, Greeting:

Know ye, that we, having examined the records and files in the office of the surrogate of the city and county of New York, do find there remaining, a certain record of the notice of appeal, papers, order and decree, in the matter of the appraisal under the act in relation to taxable transfers of property of the property of Timothy B. Blackstone deceased, (together with papers on remittitur, said papers with the originals thereof being all the papers upon which said order and decree was made) in the words and figures following, to wit:

[New York Surrogate's Seal.]

b Court of Appeals.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

ISABELLA F. BLACKSTONE, Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased, Appellant;

COMPTROLLER OF THE CITY OF NEW YORK, Respondent.

Papers on Appeal.

Edward W. Sheldon, attorney for appellant, No. 45 Wall street, Manhattan, New York.
Julius Offenbach, Esq., attorney for respondent.

1 *Order Appointing Appraiser, Read on Behalf of Respondent.*

At a surrogate's court of the county of New York, held at the county court-house in the county of New York on the 12th day of November, 1900.
Present: Hon. Frank T. Fitzgerald, surrogate.

In the Matter of the Transfer Tax upon the Estate of TIMOTHY B. BLACKSTONE, Deceased.

On reading and filing the petition of Hon. Bird S. Coler, comptroller of the city of New York, bearing date and verified the 10th day of November, 1900, I do hereby, pursuant to the requirement of chapter 658, of the Laws of 1900, direct Charles B. Paige, one of the appraisers appointed by the State comptroller under said statute, to fix the fair market value at the time of the transfer of the property which was of the above-named decedent, and which is subject

to the payment of any tax imposed by article X, chap. 908, Laws of 1896, and the acts amendatory thereof, and supplemental thereto.

FRANK T. FITZGERALD, *Surrogate.*

Original filed Nov. 12, 1900.
A true copy.
J. FAIRFAX McLAUGHLIN,
Clerk of the Surrogate's Court.
[SEAL.]

10-cent rev. stamp.

2 *Petition for Foregoing Order, Read on Behalf of Respondent.*

Surrogate's Court, County of New York.

In the Matter of the Transfer Tax upon the Estate of TIMOTHY B. BLACKSTONE, Deceased.

To the surrogate's court:

The petition of Hon. Bird S. Coler respectfully shows:
I. That he is the comptroller of the city of New York.

On information and belief.

II. That on or about the 26th day of May, 1900, Timothy B. Blackstone, then residing without the State of New York, was seized and possessed of property in the city and State of New York, subject to taxation under the act in relation to taxable transfers of property, to the value, and upwards, of ten thousand ($10,000.00) dollars, and that on said 26th day of May, 1900, said decedent departed this life.

III. That said decedent died, leaving a last will and testament, and that thereafter, and on or about the 20th day of June, 1900, letters testamentary were duly issued by the probate court of Cook county, Illinois, to Isabella F. Blackstone.

IV. That said property, or some part thereof, is subject to
3 the act in relation to taxable transfers of property. That no payment of such tax has been made, and that no proceeding has been brought to fix and determine the same by the representatives of said decedent, although said property has been, or is about to be, removed from the State of New York without the payment of said tax. That no application for letters ancillary, or otherwise, has been made by the representatives of said decedent in New York county.

V. That all the persons who are interested in the said estate, and who are entitled to notice of all proceedings, and their addresses are as follows:

Comptroller of the city of New York, 280 Broadway, borough of Manhattan, city of New York.

Isabella F. Blackstone, 252 Michigan avenue, Chicago, Ill.

Wherefore, your petitioner prays for the appointment of some competent person as appraiser, as provided by law.

Dated New York, November 10, 1900.

BIRD S. COLER.

COUNTY OF NEW YORK, *ss.:*

Bird S. Coler, being duly sworn, deposes and says: That he is the comptroller of the city of New York. That he has read the foregoing petition and knows the contents thereof. That the same is true of his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

BIRD S. COLER.

Sworn to before me this 10th day of November, 1900.

JULIUS MEYERS,
Notary Public, N. Y. Co.

4 *Notice of Appraisal, Read on Behalf of Respondent.*

Surrogate's Court, County of New York.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

You will please to take notice that, by virtue of an order of Hon. Frank T. Fitzgerald, one of the surrogates of the county of New York, made and dated the 12th day of November, 1900, and pursuant to provisions of chapter 908 of the Laws of 1896, relating to taxable transfers of property, and the acts amendatory thereof, I shall on the 12th day of December, 1900, at 11 o'clock in the forenoon of that day, at room No. 1403, Home Life building, Nos. 256 & 257 Broadway, in the borough of Manhattan, city of New York, proceed to appraise at its fair market value all the property of said Timothy B. Blackstone, deceased, late of the said city, passing by his last will and testament or by the intestate laws of the State of New York, which is subject to the payment of the tax imposed by the said act and the acts amendatory thereof.

And such of you as are hereby notified as are under the age of twenty-one years, are required to appear by your guardian, if you have one, or, if you have none, to appear and apply for one
5 to be appointed, or in the event of your neglect or failure to do so, a guardian will be appointed by the surrogate to represent and act for you in the proceeding.

New York, December 3d, 1900.

CHARLES P. PAGE, *Appraiser.*

New York, December 3d, 1900.

CHARLES B. PAGE, *Appraiser.*

To Hon. Bird S. Coler, comptroller, 280 Broadway, borough of Manhattan, New York city. Julius Offenbach, Esq., attorney for comptroller, 27 & 29 Pine St., borough of Manhattan, New York city. Isabella F. Blackstone, 252 Michigan avenue, Chicago, Ill.

CITY AND COUNTY OF NEW YORK, *ss.*:

Thomas P. Kelly, being duly sworn, says: That he is over 18 years of age, and that on the 3d day of December, 1900, he deposited in the post-office, at the city of New York, a copy of the foregoing notice, contained in securely closed postpaid wrappers, directed to each of the above-mentioned persons, respectively, at the address set opposite their names, being all the persons known to have or claim an interest in the property passing by the will of Timothy B. Blackstone, deceased, which is subject to the payment of the tax imposed by the said acts.

THOMAS P. KELLY.

Sworn to before me December 3d, 1900.

ROBERT MAZET,
Notary Public, N. Y. Co.

6 *Notice of Appearance, Read on Behalf of Appellant.*

Surrogate's Court, New York County.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

SIRS: Please take notice that Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, appears in the above-entitled proceeding, and that I am retained and appear as attorney for her therein, and on her behalf object to the appraisal and taxation under the laws of the State of New York relating to taxable transfers of any property, as passing by transfer under said will to any of the legatees or devisees thereunder, on the following grounds, namely:

I. That Timothy B. Blackstone, the decedent above named, left no property within the State of New York which is subject to taxation in said State, and that accordingly this court has no jurisdiction in this proceeding.

II. That all the property passing by said will to said legatees and devisees has been subjected to an inheritance tax under the laws of the State of Illinois, and that such tax has been duly paid.

7 III. That the said Timothy B. Blackstone was not a resident of or domiciled in the State of New York at the time of his death, and that no one of said legatees or devisees was at that time or now is domiciled in said State.

IV. That the taxation of any property of the said Timothy B. Blackstone in this proceeding would be unconstitutional and void, for the following reasons:

(1.) That it would impair the obligation of contracts in violation of section 10 of article 1 of the Constitution of the United States.

(2.) That it would deny full faith and credit to the public acts, records and judicial proceedings of the State of Illinois, in violation of section 1 of article IV of said Constitution.

(3.) That it would deny to citizens of the State of Illinois some of the privileges and immunities of citizens in the State of New York, in violation of section 2 of article IV of said Constitution.

(4.) That it would deprive said legatees and devisees of property without due process of law, in violation of article V of the amendment to said Constitution.

(5.) That it would abridge the privileges or immunities of citizens of the United States; that it would deprive said legatees and devisees of property without due process of law, and that it would deny said legatees and devisees the equal protection of the law, all in violation of article XIV of amendment to said Constitution.

(6.) That it would deprive said legatees and devisees of property without due process of law, in violation of section 6 of article
8 1 of the constitution of the State of New York.

Dated New York, December 17, 1900.

Yours, &c., EDWARD W. SHELDON,

Attorney for Isabelia F. Blackstone, Individually and as Executrix, &c., of Timothy B. Blackstone, Deceased, No. 45 Wall Street, Manhattan, New York.

To Charles B. Page, Esq., appraiser. Julius Offenbach, Esq., attorney for the comptroller of the city of New York.

Appraiser's Oath, Read on Behalf of Respondent.

Surrogate's Court, County of New York.

In the Matter of the Estate of TIMOTHY B. BLACKSTONE, Deceased, to be Appraised for Taxation Pursuant to the Law Relative to Taxable Transfers of Property.

CITY AND COUNTY OF NEW YORK, *ss:*

I, Charles B. Page, who was appointed the appraiser in the above matter, by an order made and entered on the 12th day of November, 1900, do solemnly swear, that I will faithfully and fairly
9 perform the duties of such appraiser, and make a just and true report according to the best of my understanding

CHARLES B. PAGE.

Sworn to before me this 3d day of December, 1900.

WM. C. WILSON,
Notary Public, N. Y. Co.

Appraiser's Report, Read on Behalf of Respondent.

Surrogate's Court, County of New York.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

To the surrogate's court of the county of New York:

I, Charles B. Page, who was, by an order of Hon. Frank T. Fitzgerald, one of the surrogates of the county of New York, made and

entered on the 12th day November, 1900 (certified copy of which order is hereto annexed), directed to act as appraiser, in pursuance of chapter 908, of the Laws of 1896, and the acts amendatory thereof and supplemental thereto, do respectfully report:

10 First. That immediately after my appointment, I took the oath prescribed by statute, which is hereto annexed; and I gave notice by mail, postage prepaid, to all persons known to have or claim an interest in all property subject to the tax imposed by said law, to wit: to the following-named persons, being those named in the petition for said order, of the time and place I would appraise the property of Timothy B. Blackstone, deceased, subject to the payment of said tax; a true copy of said notice is also hereto attached:

Hon. Bird S. Coler, comptroller.

Julius Offenbach, Esq., attorney for comptroller.

Isabella F. Blackstone.

Second. I further report that at the time and place in said notice stated, to wit: on the 12th day of December, 1900, at 11.00 o'clock in the forenoon, at room 1403, in the Home Life building, No. 256 Broadway, in the borough of Manhattan, in the city of New York, and at other and subsequent times and at divers places, I appraised the estate of said Timothy B. Blackstone, deceased, at its fair market value on the 26th day of May, 1900, the date of the death of said decedent, as follows:

Property of decedent in this State subject to tax in this proceeding, consisting wholly of cash on deposit with the United States Trust Company, amounting to	$4,843,456.72
And with Cuyler, Morgan & Co., amounting to	10,692.24
Total	$4,854,148.96
The proportionate amount of deductions in this State amount to	300,539.38
Leaving a net personal estate of	$4,553,609.58

11 Third. I further report that Timothy B. Blackstone died on the 26th day of May, 1900, a resident of the city of Chicago, in the State of Illinois, leaving a last will and testament, copy of which is hereto annexed; that said will was duly admitted to probate and letters testamentary thereupon issued to Isabella F. Blackstone, on the 20th day of June, 1900, by the probate court of Cook county, Illinois, and that under the terms of said will the testator made the following disposition of his estate:

Specific Legacies.

Ellen B. Plant, niece, cash legacy	25,000.00
William L. Harrison, grand-nephew, cash legacy	30,000.00
Paul Harrison, grand-nephew, cash legacy	30,000.00
Gertrude Harrison, grandniece, cash legacy	20,000.00

George Blackstone, nephew, cash legacy	50,000.00
Adelaide Blackstone, niece, cash legacy	20,000.00
Emma Pond, niece, cash legacy	20,000.00
William N. Blackstone, nephew, cash legacy	250,000.00
Harriet B. Camp, niece, cash legacy	25,000.00
Frances Ella Huntington, no relation, cash legacy	25,000.00
Lorenzo Blackstone, grand-nephew, cash legacy	25,000.00
Morton F. Plant, nephew, cash legacy	10,000.00
William J. Brysen, no relation, cash legacy	15,000.00
Susan E. Jones, no relation, cash legacy	5,000.00
12 James Blackstone Memorial Library Association of Branford, Conn., cash legacy	100,000.00
Art Institute of Chicago, cash legacy	25,000.00
Chicago orphan asylum, cash legacy	25,000.00
Home for the Friendless, Chicago, Ill., cash legacy	25,000.00
St. Luke's hospital, Chicago, Ill., cash legacy	25,000.00
Passavant Memorial hospital, Chicago, Ill., cash legacy	25,000.00
Chicago Relief & Aid Society, cash legacy	$25,000.00
Total specific legacies	$800,000.00

Leaving a net residuary estate of $3,753,609.58 which, under the terms of the will, is disposed of as follows:

Isabella F. Blackstone, widow, residuary estate	$3,753,609.58

Fourth. I further report that the said decedent left no real estate within the State of New York.

Fifth. I further report that all the persons interested in this proceeding, as above set forth, are of full age and of sound mind.

Sixth. I further report that the following appearances were made before me in this proceeding:

Julius Offenbach, Esq., attorney for city comptroller.

Edward W. Sheldon, Esq., attorney for Isabella F. Blackstone.

Seventh. I further report that I appraised the estate of said Timothy B. Blackstone, deceased, subject to tax in this proceeding, at its fair market value at the date of the death of the said decedent, to wit,—on the 26th day of May, 1900, as follows:

13 Ellen B. Plant, niece, interest in estate	$25,000.00
William L. Harrison, grand-nephew, interest in estate	30,000.00
Paul Harrison, grand-nephew, interest in estate	30,000.00
Gertrude Harrison, grandniece, interest in estate	20,000.00
George Blackstone, nephew, interest in estate	50,000.00
Adelaide Blackstone, niece, interest in estate	20,000.00
Emma Pond, niece, interest in estate	20,000.00
William N. Blackstone, nephew, interest in estate	250,000.00
Harriet B. Camp, niece, interest in estate	25,000.00
Frances Ella Huntington, no relation, interest in estate	25,000.00
Lorenzo Blackstone, grand-nephew, interest in estate	25,000.00
Morton F. Plant, nephew, interest in estate	10,000.00

	William J. Bryson, no relation, interest in estate.....	15,000.00
	Susan E. Jones, no relation, interest in estate.....	5,000.00
	James Blackstone Memorial Library Association of Branford, Conn., interest in estate.....	100,000.00
	Art Institute of Chicago, interest in estate.....	25,000.00
	Chicago orphan asylum, interest in estate.....	25,000.00
	Home for the Friendless, Chicago, Ill., interest in estate	25,000.00
	St. Luke's hospital, Chicago, Ill., interest in estate.....	25,000.00
	Passavant Memorial hospital, Chicago, Ill., interest in estate	25,000.00
14	Chicago Relief & Aid Society, interest in estate..	25,000.00
	Isabella F. Blackstone, widow, interest in estate..	3,753,609.58

Dated New York, January 31, 1901.

Respectfully submitted:

CHARLES B. PAGE, *Appraiser.*

Executrix'- Answer, Read on Behalf of Appellant.

Surrogate's Court, New York County.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, appearing in this matter for the purpose of contesting the jurisdiction of the court, for answer to this proceeding and to the petition herein of Bird S. Color, comptroller of the city of New York, respectfully shows:

First. This respondent admits, as alleged in said petition, that said Timothy B. Blackstone died on the 23th day of May, 1900, while residing without the State of New York, leaving a last will and testament, upon which letters testamentary were there-
15 after duly issued by the probate court of Cook county, Illinois, to this respondent; that no transfer tax has been paid in the State of New York upon any of the property of said decedent, and that no application for letters ancillary or otherwise has been made by the representatives of said decedent in the county of New York, but this respondent denies every other allegation contained in said petition.

Second. That the said Timothy B. Blackstone was, at the time of his death, which took place in the city of Chicago in said county of Cook, State of Illinois, and had been for many years prior thereto, a resident of and domiciled in said city; that this respondent was his wife and since his death has resided in and maintained the family home in said city; that the testator never lived nor did business in the State of New York; that at the time of his death he was seventy years old and had retired from business pursuits, but that for more than thirty-four years prior to March, 1899, he was the

president of the Chicago & Alton Railroad Company, a corporation formed under the laws of the State of Illinois, and having its principal office in the city of Chicago aforesaid, and was a large holder of the preferred and common stock of said corporation; that in or about the month of March, 1899, an agreement was made by the holders of more than a majority of each class of said stock to sell their stock to certain persons acting on behalf of themselves and others for the purpose of such purchase; that by the terms of such agreement the vendors were to deposit their certificates of stock with the United States Trust Company of New York, receiving in payment therefor $200.00 for each share of preferred stock, and $175.00 for each share of common stock; that on or about the 29th day of March, 1899, the decedent, having determined to sell his
16 stock upon the terms aforesaid, forwarded to said trust company by express, from the city of Chicago, where they had always been held, certificates for 11,450 shares of the preferred stock of said railroad company and 15,077 shares of the common stock of said railroad company owned by him, and also a certificnte for 49 shares of preferred stock and 1673 shares of the common stock held by him as trustee of the estate of one Henry B. Norton, deceased; that instead of having the proceeds of such sale immediately remitted to him by said trust company, the decedent, in accordance with a special agreement previously made by him with said trust company directed that company upon the receipt of said stock to hold temporarily the proceeds thereof to his credit individually and as trustee as aforesaid respectively, until his further order; that by the terms of such special agreement said trust company was to hold said sums subject as aforesaid, to his order, was to pay him interest thereon at the rate of 2½ per cent. per annum, and was to repay the principal on demand provided that notice of not less than two days should be given to said trust company before any portion of such principal in excess of $100,000 was demanded; that the decedent accepted such terms and received the acknowledgment of said trust company, that it so held to his credit individually on the 31st day of March, 1899, the sum of $4,881,522.21, and to his credit as trustee of the estate of H. B. Norton, deceased, of the sum of $299,527.06; that these sums were the only deposits ever made by the decedent in said trust company; that said proceeds of sale of his individual stock constituted at least seven-eighths of his fortune; that his object in allowing such proceeds to remain transitorially in the city of New York was to avoid the risk and expense of their transfer to Chicago and their probable retransfer to New York when he had determined what permanent investment of them he should
17 make; that in the case of the estate of said Henry B. Norton, deceased, he accomplished such permanent investment and withdrew all of said moneys prior to his death, but that in the case of his personal funds, owing to ill health, he was unable to find satisfactory investments for more than $192,000 of such deposit; and that continuously and progressively from March, 1899, to the time

of his death, the decedent was in feeble health and unable to attend actively to his business affairs.

Third. That at the time of the decedent's death, the balance of such deposit, including the interest credited by said trust company to March 31, 1900, was $4,820,958.93, and that on August 9, 1900, said trust company credited interest on such balance from March 31, 1900, to May 26, 1900, amounting at the rate of three per cent. per annum to $22,497.79, so that the total amount due to the decedent's estate from said trust company as of May 26th, 1900, was $4,843,456.72.

Fourth. That at the time of the decedent's death the firm of Cuyler, Morgan & Co., bankers, of the city of New York, and transfer agents of said Chicago & Alton Railroad Company, was indebted to him in the sum of $10,692.24, being the balance of his deposit account with said firm.

Fifth. That the decedent left a last will and testament, dated September 2, 1898, a true copy of which is hereto annexed marked Exhibit A and made part of this answer, and which was duly proved on the 17th day of July, 1900, before the probate court of said county of Cook, Illinois, to which jurisdiction in that behalf belonged, and letters testamentary upon said will were on said last-mentioned date duly issued to this respondent, the sole executor therein named.

Sixth. That no proceedings for the probate of said will or
18 the administration of said estate have been taken in the State of New York; that this respondent and all the next of kin and legatees of the testator reside either in the city of Chicago aforesaid, or elsewhere without the State of New York; that Mary A. Plant, the sister of the decedent named in the first paragraph of his will, died before him, and that all of the remaining general legacies given by said will have been paid in full by this respondent.

Seventh. That prior to the institution of this proceeding, proceedings were duly taken in the county court of Cook county, Illinois, under the law of the State of Illinois, approved June 15, 1895, entitled "An act to tax gifts, legacies and inheritances in certain cases and to provide for the collection of the same," for the imposition of a tax upon the real and personal estate of said decedent; that an appraiser was duly appointed by the county judge of Cook county pursuant to the terms of said act, who thereupon duly appraised the property passing under the will of the decedent as being of the fair market value less $199,708.81, of deductions, of $5,141,690.01; that the property so appraised was composed as follows: Illinois real estate, $236,793; the above-mentioned balances with the United States Trust Company of New York and the Messrs. Cuyler, Morgan & Co., $4,854,148.96, and miscellaneous personal property, $250,454.86; that an order was thereupon duly made by said county judge adopting such appraisal and fixing the tax on the right to the succession to the legacies and devise contained in said will at $68,026.86; that on the 26th day of November, 1900, and before this respondent had any knowledge of the present proceeding, this respondent duly paid the amount of said tax less the discount of five per cent. allowed by

said law. With the exception of one legacy aggregating $50,000, such tax was paid by this respondent personally and the lega-
19 cies themselves were paid to the respective legatees without deduction for the tax. Hereto annexed, marked Exhibits B, C, D and E respectively, are true copies of the official inventory of the decedent's estate, of said Illinois inheritance tax law, of the official appraisal and order in said Illinois inheritance tax proceeding, and a duplicate acknowledgment in detail by the treasurer of Cook county of the full payment to him of said tax.

Eighth. That as this respondent is informed and believes, the method adopted by the State of Illinois as above set forth of taxing debts due to its citizens by citizens of other States, is the same method as that which prevails in the State of New York.

Ninth. That as this respondent is further informed and believes, this court has no jurisdiction of the subject-matter of this proceeding or of the person of this respondent, for the reason that this respondent is a citizen and resident of the State of Illinois and that there was no property within the State of New York belonging to the said decedent at the time of his death, which is subject to a transfer tax in said State.

Tenth. That as this respondent is further informed and believes, the transfer tax law of the State of New York was not intended to, and does not, in fact, include in its operation the above-mentioned money owing to the decedent at the time of his death by said United States Trust Company of New York or said Cuyler, Morgan & Co., but that if was so intended by said law, that said law was to that extent unconstitutional and void, for the following reasons:

1. That it was in violation of section 10 of article I of the Constitution of the United States which prohibits any State from passing any law impairing the obligation of contracts.

20 2. That it was in violation of section 1 of article IV of said Constitution which requires that full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State.

3. That it was in violation of section 2 of article IV of said Constitution, which provides that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

4. That it was a violation of article V of amendment to said Constitution which provides that no person shall be deprived of property without due process of law.

5. That it was in violation of article XIV of amendment to said Constitution, which provides that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law.

6. That it was in violation of section 6 of article I of the constitution of the State of New York which provides that no person shall be deprived of property without due process of law.

Wherefore this respondent prays that this proceeding may be dismissed.

ISABELLA F. BLACKSTONE,
Individually and as Executrix, &c., of
Timothy B. Blackstone, Deceased, Respondent.
EDWARD W. SHELDON,
Attorney for Respondent.

21 STATE OF ILLINOIS, } ss:
County of Cook, }

Isabella F. Blackstone, being duly sworn, says that individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, she is the respondent above named, and that the foregoing answer is true of her own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters she believes it to be true.

ISABELLA F. BLACKSTONE.

Subscribed and sworn to before me this 17th day of December, 1900.

FRANK G. OFFENLOCK,
[SEAL.] *Notary Public.*

(County clerk's certificate attached.)

STATE OF ILLINOIS, } ss:
Cook County, }

I, Philip Knopf, county clerk and clerk of the county court of Cook county, the same being a court of record, do hereby certify that Frank G. Offenlock, whose name is subscribed to the annexed jurat, was at the time of signing the same a notary public in Cook county, duly commissioned, sworn and acting as such, and authorized to administer oath-; that I am well acquainted with the handwriting of said notary and verily believe that the signature of the said jur*or* is genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at the city of Chicago, in the said county, this 17th day of Dec., 1900.

[SEAL.] PHILIP KNOPF, *Clerk.*

10c. rev. stamp cancelled.

22 EXHIBIT A.

I, T. B. Blackstone, of the city of Chicago, county of Cook and State of Illinois, being of sound mind and memory, do make, publish and declare this to be my last will and testament hereby revoking all others by me heretofore made.

I.

I direct that all my just debts be paid as soon as conveniently may be after my decease.

II.

I give and bequeath to my sister Mary A. Plant the sum of fifty thousand dollars.

III.

I give and bequeath to my niece Ellen B. Plant the sum of twenty-five thousand dollars.

IV.

I give and bequeath to my grand-nephew William L. Harrison the sum of thirty thousand dollars.

V.

I give and bequeath to my grand-nephew Paul Harrison the sum of thirty thousand dollars.

VI.

I give and bequeath to my grandniece Gertrude Harrison the sum of twenty thousand dollars.

VII.

I give and bequeath to my nephew George Blackstone the sum of fifty thousand dollars.

VIII.

I give and bequeath to my niece Adelaide Blackstone the sum of twenty thousand dollars.

IX.

I give and bequeath to my niece Mrs. Emma Pond the sum of twenty thousand dollars.

23 X.

I give an bequeath to my nephew William N. Blackstone the sum of two hundred and fifty thousand dollars.

XI.

I give and bequeath to my niece Harriet B. Camp the sum of twenty-five thousand dollars.

XII.

I give and bequeath to Frances Ella Huntington the sum of twenty-five thousand dollars.

XIII.

I give and bequeath to my grand-nephew Lorenzo Blackstone the sum of twenty-five thousand dollars.

XIV.

I give and bequeath to my nephew Morton F. Plant the sum of ten thousand dollars.

XV.

I give and bequeath to my friend William J. Brysen the sum of fifteen thousand dollars.

XVI.

I give and bequeath to Susan E. Jones the sum of five thousand dollars.

XVII.

I give and bequeath to the James Blackstone Memorial Library Association of Branford, Connecticut the sum of one hundred thousand dollars.

XVIII.

I give and bequeath to the "Art Institute of Chicago" the sum of twenty-five thousand dollars.

XIX.

I give and bequeath to the "Chicago orphan asylum" the sum of twenty-five thousand dollars.

24 XX.

I give and bequeath to the "Home for the Friendless" of and located in the city of Chicago Illinois the sum of twenty-five thousand dollars.

XXI.

I give and bequeath to "St. Luke's hospital" of Chicago, Illinois, the sum of twenty-five thousand dollars.

XXII.

I give and bequeath to the "Passavant Memorial hospital" of Chicago, Illinois, the sum of twenty-five thousand dollars.

XXIII.

I give and bequeath to the "Chicago Relief and Aid Society" of Chicago, Illinois, the sum of twenty-five thousand dollars.

XXIV.

I direct that the foregoing bequests shall be paid to the respective persons and the proper officer or officers of the respective corporations as soon after my decease as shall be convenient to my executrix; and to the end that the same may be seasonably and conveniently paid to the proper persons and corporations according to the intent expressed herein I hereby authorize and empower my executrix, in her discretion to make use of any of my bonds, stock or other securities and to use the same as so much money at their market value without converting such securities into money. This discretion is vested in my executrix exclusively and she may con-

vert such securities into cash to pay each or all of the foregoing bequests or use the securities at their market value as she may deem most expedient.

XXV.

All the rest, remainder and residue of my estate, real, per-
25 sonal and mixed of every kind and nature and wherever situated I give, devise and bequeath to my wife Isabella F. Blackstone and to her heirs, executors, administrators and assigns as & for her absolute estate and property forever.

XXVI.

I do nominate and appoint my wife, Isabella F. Blackstone, to be the sole executrix of this my last will and testament and I do direct that she shall not be required to give any security on her bond as such executrix.

In witness whereof I have hereunto set my hand and seal this second day of September, in the year of our Lord one thousand eight hundred and ninety-eight.

T. B. BLACKSTONE. [SEAL.]

The foregoing instrument of writing, composed of four half sheets and written upon only one side, was on this second day of September, 1898, signed, sealed, published and declared by the said T. B. Blackstone as and for his last will and testament in our presence, and we at his request and in his presence and in the presence of each other have hereunto signed our names as subscribing witnesses thereto.

WM. BROWN,
Of Jacksonville, Ills.
WM. BROWN, JR.

Will proved and admitted to record in open court this 17th day of July, A. D. 1900.

JOHN H. BATTEN,
Acting Probate Judge.

26 STATE OF ILLINOIS, } ss:
County of Cook, }

In the Probate Court of Cook County.

Proved and admitted to record in open court this 17th day of July, A. D. 1900.

JAMES REDDICK, *Clerk.*

Filed June 21st, 1900.

JAMES REDDICK, *Clerk.*

STATE OF ILLINOIS, } ss:
County of Cook, }

The People of the State of Illinois to all to whom these presents shall come, Greeting:

Know ye, that whereas, Timothy B. Blackstone, late of the county of Cook and State of Illinois, died on or about the 26th day of May, A. D. 1900, as it is said, after having duly made and published his last will and testament, a copy whereof is hereunto annexed, leaving at the time of his death property in this State which may be lost, destroyed or diminished in value, if speedy care be not taken of the same; and inasmuch as it appears that Isabella F. Blackstone has been appointed executrix in and by the said last will and testament, to execute the same, and to the end that the said property may be preserved for those who shall appear to have a legal right or interest therein, and that said will may be executed according to the request of the said testator we do hereby authorize her, the said Isabella F. Blackstone, as such executrix to collect and secure all and singular the goods and chattels, rights and credits which were of the said Timothy B. Blackstone at the time of his decease, in whose-
27 soever hands or possession the same may be found, in this State, and well and truly to perform and fulfill all such duties as may be enjoined upon her by the said will, so far as there shall be property and the law charge her and in general to do and perform all other acts which now or hereafter may be required of her by law.

Witness, James Reddick, clerk of the probate court of said county of Cook, and the seal of said court, this 17th day of July, A. D. 1900.

[SEAL.] JAMES REDDICK, *Clerk.*

STATE OF ILLINOIS, } ss:
County of Cook, }

I, James Reddick, clerk of the probate court of Cook county, in the State aforesaid, do hereby certify that the within is a true and correct copy of the last will and testament of Timothy B. Blackstone, deceased, and of letters testamentary issued thereon, on the 17th day of July, A. D. 1900, to Isabella F. Blackstone, now in force, as appears from the originals on file, and from the records of the probate court, in my office.

In witness whereof I have hereunto set my hand and affixed the seal of the said probate court, at Chicago, in said county, this 17th day of July, A. D. 1900.

[SEAL.] JAMES REDDICK, *Clerk.*

UNITED STATES OF AMERICA:

STATE OF ILLINOIS, } ss:
County of Cook, }

I, James Reddick, clerk of the probate court of Cook county, and keeper of the records and files thereof, in the State aforesaid, do

hereby certify the annexed and foregoing to be a true and correct copy of the last will and testament of Timothy B. Blackstone, deceased, and letters testamentary issued to Isabella F. Blackstone, on the 17th day of July, A. D. 1900, in the matter of the estate of Timothy B. Blackstone, deceased, as appears from the originals on file and from the records of the probate court in my office.

28

In witness whereof I have hereunto set my hand and affixed the seal of said probate court, at my office in the city of Chicago, in said county, this 12th day of December, A. D. 1900.

JAMES REDDICK,
Clerk of the Probate Court.

[SEAL.]

(10c. inter. rev. stamp cancelled.)

STATE OF ILLINOIS, } ss:
County of Cook, }

I, C. S. Cutting, probate judge of Cook county, and sole presiding judge of the probate court of Cook county, in the State of Illinois, do hereby certify that James Reddick, Esq., whose name is subscribed to the foregoing certificate of attestation, now is and was at the time of signing and sealing the same, the clerk of the probate court of Cook county aforesaid, and keeper of the records, files and seal thereof, duly elected and qualified to office, and that full faith and credit are, and of right ought to be, given to all his official acts as such, in all courts of record and elsewhere, and that his said attestation is in due form of law and by the proper officer.

Given under my hand and seal, at Chicago, in said Cook county, this 12th day of December, A. D. 1900.

CHARLES S. CUTTING,
Probate Judge of Cook County, Illinois.

[SEAL.]

(10c. inter. rev. stamp cancelled.)

29 UNITED STATES OF AMERICA:

STATE OF ILLINOIS, } ss:
County of Cook, }

I, James Reddick, clerk of the probate court of Cook county, in the State of Illinois (said court being a court of record), do hereby certify that the Honorable C. S. Cutting, whose name is subscribed to the annexed and foregoing certificate, at the time of the signing thereof, and now is, the probate judge of said Cook county, and sole presiding judge of said probate court, duly elected, commissioned and qualified, and that his said signature is genuine.

In witness whereof I have signed my name and affixed the seal of said probate court, at my office, in the city of Chicago, in said Cook county, this 12th day of December, 1900.

JAMES REDDICK, *Clerk.*

[SEAL.]

(10c. inter. rev. stamp cancelled.)

EXHIBIT "B."

STATE OF ILLINOIS, } ss:
County of Cook, }

In the Probate Court Thereof, September Term, A. D. 1900.

In the Matter of the Estate of TIMOTHY B. BLACKSTONE, Deceased.

And now on this day comes Isabella F. Blackstone, executrix of the last will and testament of Timothy B. Blackstone, de-
30 ceased, and exhibits and files this her inventory of the property both real and personal, belonging to the estate of Timothy B. Blackstone, at the time of his death.

Real Property.

Lot 9, block 13, frac. sec. 15, add. to Chicago, improved. House and stable	$150,000.
N. E. ¼ sec. 32 T. 36 R. 1 La Salle Co. Ill. 157 acres	29,693.
W. ½ and S. E. ¼ T. 36 R. 1 La Salle Co. Ill. 114 acres	House & barn.
66 44	
Sub. div. of N. 32 a E. 45 a S. E. ¼	
Lot 6, bl'k 2, Mendota, Ill	200.00
" 12, " 2, " "	200.00
" 2 & 3, " 28, " "	200.00
" 8 & 9, " " " "	200.00
W. 60 ft. lot. 11 bk. 29, Mendota, Ill	100.00
" 12 " "	200.00
E. ½ S. E. ¼ sec. 10 T. 41 R. 16, Miller Co. Mo. unimproved	350.00
E. ½ sec 19 S. E. ¼ sec. 20 Will Co. Ill., unimproved	22,000.00
	$203,143.00

(Unimproved.)

Personal Property.

Deposit in bank, Chicago		$2,355.86
" " " New York city		4,854,148.96
Note am't on deposit U. S. Trust Co.	4,843,456.72	
Note amount on deposit Cuyley, Morgan & Co.	10,692.24	
500 shares Ill. Central R. R. Co. stock		50,000.00
2 " Kansas City, St. L. & Chicago R. R. stock		200.00
528 shares Joliet and Chicago R. R. stock		52,800.00
31 121 " Louisiana and Missouri River R. R. stock		12,100.00
653 shares Ill. & Miss. Telegraph Co. stock		65,300.00
160 " Union Rendering Co. stock		16,000.00
250 " Chicago Auditorium Association stock		25,000.00

8 bonds Louisville & Nashville R. R.		8,000.00
4 " Miss. River Bridge Co.		4,000.00
16 " ($100 each) Chicago Club		1,600.00
100 shares Atlas Nat. Bank. No value.		
3 bonds Chicago Athenæum Ass'n. No value.		
Willis M. Hitt	$3,331.41. Doubtful.	
George M. Bogue	1,000 "	
J. H. Wood,	5,000 "	
		$5,091,504.82
As per appraisement		599.

Recapitulation.

Real estate	$203,143.
Personal property	5,091,504.82
Appraisement	599.00
Total	$5,295,246.82

A Bill of Appraisement of the Estate of Timothy B. Blackstone, Late of the County of Cook and State of Illinois, Deceased.

3	carriages, at $75.00 each	$225 00
3	horses, at $75.00 each	225 00
2	double set- harness, at $30.00 each	60 00
1	single set harness	20 00
32	3 desks, at $10.00 each	30 00
1	table	5 00
3	book-cases, at $5.00 each	15 00
1	lounge	5 00
14	chairs, at $1.00 each	14 00
		$599 00

We, the undersigned, appraisers of the estate of Timothy B. Blackstone, deceased, do hereby certify that the foregoing is a full, just and impartial appraisement of the personal estate of said deceased, subject to appraisement, so far as the same has come to our sight or knowledge.

Witness our hands and seals this 25th day of September, 1900.

HARRY G. HALL, [SEAL.]
FRANK C. FARNUM, [SEAL.]
HENRY C. ANDERSON, [SEAL.]
Appraisers.

Approved in open court, Sept. 26, 1900.

JOHN H. BATTEN,
Acting Probate Judge of Cook County, Ills.

Filed Sept. 26, 1900.

JAMES REDDICK, *Clerk.*

STATE OF ILLINOIS, } ss:
County of Cook, }

The Peop'e of the State of Illinois to Frank C. Farnum, Henry C. Anderson, Harry G. Hall, of the county of Cook and State of Illinois, Greeting:

This is to authorize you, jointly, to appraise the goods, chattels and personal estate of Timothy B. Blackstone, late of the county of Cook, and State of Illinois, deceased, so far as the same shall come to your sight and knowledge, each of you having first taken
33 the oath hereto annexed; a certificate whereof you are to return, annexed to an appraisement bill of said goods, chattels and personal estate by you appraised, in dollars and cents; and in the said bill of appraisement you are to set down in a column or columns opposite to each article appraised, the value thereof.

Witness, James Reddick, clerk of probate court of Cook county, and the seal of said court, this 17th day of July, A. D. 1900.

[SEAL.] JAMES REDDICK, *Clerk*

We, and each of us, do solemnly swear that we will well and truly, without partiality or prejudice, value and appraise the goods, chattels and personal estate of Timothy B. Blackstone, deceased, so far as the same shall come to our sight and knowledge; and that we will, in all respects, perform our duty as appraisers, to the best of our skill and judgment.

FRANK C. FARNUM, [SEAL.]
HARRY G. HALL, [SEAL.]
HENRY C. ANDERSON, [SEAL.]
Appraisers.

Subscribed and sworn to before me, James Reddick, clerk of the probate court of Cook county, this 25th day of Sept., A. D. 1900.

JAMES REDDICK, *Clerk.*

I, Isabella F. Blackstone, executrix of the last will and testament of Timothy B. Blackstone, deceased, do hereby certify that the foregoing is a full, true, complete and perfect inventory of all of the estate, both real and personal, belonging to the estate of said deceased, that has come to my hands, possession, sight or knowledge as such executrix.

ISABELLA F. BLACKSTONE,
Executrix as Aforesaid.

September 25th, A. D. 1900.

Approved in open court Sept. 26, 1900.
JOHN H. BATTEN,
Acting Probate Judge of Cook County, Illinois.

Filed Sept. 26, 1900.
JAMES REDDICK, *Clerk.*

34 UNITED STATES OF AMERICA:

STATE OF ILLINOIS, } ss:
County of Cook, }

I, James Reddick, clerk of the probate court of Cook county, in the State of Illinois (said court being a court of record), do hereby certify that the Honorable Charles S. Cutting, whose name is subscribed to the annexed and foregoing certificate, was, at the time of the signing thereof, and now is, the probate judge of said Cook county, and sole presiding judge of said probate court, duly elected, commissioned and qualified, and that his said signature is genuine.

In witness whereof I have signed my name and affixed the seal of said probate court, at my office, in the city of Chicago, in said Cook county, this 10th day of December, 1900.

[SEAL.] JAMES REDDICK, *Clerk.*

(10c. inter. rev. stamp cancelled.)

UNITED STATES OF AMERICA:

STATE OF ILLINOIS, } ss:
County of Cook, }

I, James Reddick, clerk of the probate court of Cook county, and the keeper of the records and files thereof, in the State aforesaid, do hereby certify the annexed and foregoing to be a true and correct copy of the inventory and appraisement of the estate of Timothy B. Blackstone, deceased, filed and approved on the 26th day of September, A. D. 1900, as it appears from the originals on file and from the records of the probate court in my office.

In witness whereof I have hereunto set my hand and affixed the seal of said probate court, at my office, in the city of Chicago, in said county, this 10th day of December, A. D. 1900.

JAMES REDDICK,

[SEAL.] *Clerk of the Probate Court.*

(10c. inter. rev. stamp cancelled.)

35 STATE OF ILLINOIS, } ss:
County of Cook, }

I, Charles S. Cutting, probate judge of Cook county, and sole presiding judge of the probate court of Cook county, in the State of Illinois, do hereby certify that James Reddick, Esq., whose name is subscribed to the foregoing certificate of attestation, now is, and was at the time of signing and sealing the same, the clerk of the probate court of Cook county aforesaid, and keeper of the records, files and seal thereof, duly elected and qualified to office, and that full faith and credit are, and of right ought to be given, to all his official acts as such, in all courts of records and elsewhere, and that his said attestation is in due form of law and by the proper officer.

Given under my hand and seal at Chicago, in said Cook county, this 10th day of December, A. D. 1900.

CHARLES S. CUTTING, [SEAL.]
Probate Judge of Cook County, Illinois.

(10c. inter. rev. stamp cancelled.)

EXHIBIT C.

Tax on Devises, Inheritances, and Gifts.

An act to tax gifts, legacies, and inheritances in certain cases, and to provide for the collection of the same.

Approved June 15th, 1895; in force July 1st, 1895.

L. 1895, chap. 301, SECTION 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* All property, real, personal and mixed, which shall pass by will or by the intestate laws of this State from any person who may die seized or possessed of the same while a resident of this State, or, if decedent was not a resident of this State at the time of his death, which property or any part thereof shall be within this State or any interest therein
36 or income therefrom, which shall be transferred by deed, grant, sale or gift made in contemplation of the death of the grantor or bargainor or intended to take effect, in possession or enjoyment after such death, to any person or persons or to any body politic or corporate in trust or otherwise or by reason whereof any person or body politic or corporation shall become beneficially entitled in possession or expectation to any property or income thereof, shall be, and is, subject to a tax at the rate hereinafter specified to be paid to the treasurer of the proper county for the use of the State, and all heirs, legatees and devisees, administrators, executors and trustees shall be liable for any and all such taxes until the same shall have been paid, as hereinafter directed. When the beneficial interests to any property or income therefrom shall pass to or for the use of any father, mother, husband, wife, child, brother, sister, wife or widow of the son or the husband of the daughter, or any child or children adopted as such in conformity with the laws of the State of Illinois, or to any person to whom the deceased, for not less than ten years prior to the death, stood in the acknowledged relation of a parent, or to any lineal descendant born in lawful wedlock, in every such case the rate of tax shall be one dollar on every hundred dollars of the clear market value of such property, received by each person, and at and after the same rate, for every less amount, provided that any estate which may be valued at a less sum than twenty thousand dollars shall not be subject to any such duty or taxes, and the tax is to be levied in above cases only upon the excess of twenty thousand dollars received by each person. When the beneficial interests to any property or income therefrom shall pass to or for the use of any uncle, aunts, niece, nephew or any lineal descendant of the same, in every such case the rate of such tax shall be

two dollars on every one hundred dollars of the clear market
37 value of such property received by each person on the excess of two thousand dollars so received by each person. In all other cases the rate shall be as follows: On each and every hundred dollars of the clear market value of all the property and at the same rate for any less amount; on all estates of ten thousand dollars and less, three dollars; on all estates of over ten thousand dollars and not exceeding twenty thousand dollars, four dollars; on all estates over twenty thousand dollars and not exceeding fifty thousand dollars, five dollars; and on all estates over fifty thousand dollars, six dollars; provided, that an estate in the above case which may be valued at a less sum than five hundred dollars shall not be subject to any duty or tax.

§2. When any person shall bequeath or devise any property or interest therein or income therefrom to mother, father, husband, wife, brother and sister, the widow of the son, or a lineal descendant during her life or for a term of years or remainder to the collateral heir of the decedent, or to the stranger in blood or to the body politic or corporate at their decease, or on the expiration of such term, the said life estate or estates for term of years shall not be subject to any tax, and the property so passing shall be appraised immediately after the death at what was the fair market value thereof at the time of the death of the decedent in the manner hereinafter provided, and after deducting therefrom the value of said life estate or term of years, the tax transcribed by this act on the remainder shall be immediately due and payable to the treasurer of the proper county, and, together with the interest thereon, shall be and remain a lien on the said property until the same is paid: Provided, that the person or persons or body politic or corporate beneficially interested in the property chargeable with said tax elect not to pay the same until they shall come into the actual possession or en-
38 joyment of such property, or, in that case, said person or persons or body politic or corporate shall give a bond to the people of the State of Illinois in the penalty three times the amount of the tax arising upon such estate with such sureties as the county judge may approve, conditioned for the payment of the said tax and interest thereon, at such time or period as they or their representatives may come into the actual possession or enjoyment of said property, which bond shall be filed in the office of the county clerk of the proper county; provided, further, that such person shall make a full verified return of said property to said county judge and file the same in his office within one year from the death of the decedent, and within that period enter into such securities and renew the same for five years.

§3. All taxes imposed by this act, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and interest at the rate of six per cent. per annum shall be charged and collected thereon for such time as said taxes *is* not paid: Provided, that if said tax is paid within six months from the accruing thereof, interest shall not be charged or collected thereon, but a discount of five per cent. shall be allowed and deducted from said tax,

and in all cases where the executors, administrators or trustees do not pay such tax within one year from the death of the decedent, they shall be required to give a bond in the form and to the effect prescribed in § 2 of this act for the payment of said tax, together with interest.

§ 4. Any administrator, executor or trustee having any charge or trust in legacies or property for distribution subject to the said tax shall deduct the tax therefrom, or if the legacy or property be not money, he shall collect a tax thereon upon the appraised value thereof from the legatee or person entitled to such property, and he shall not deliver or be compelled to deliver any specific legacy or property subject to tax to any person until he shall have collected the tax thereon, and whenever any such legacy shall be charged upon or payable out of real estate the heir or devisee before paying the same shall deduct said tax therefrom and pay the same to the executor, administrator or trustee, and the same shall remain a charge on such real estate until paid, and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner that the payment of said legacy might be enforced, if, however, such legacy be given in money to any person for a limited period, he shall retain the tax upon the whole amount, but if it be not in money he shall make application to the court having jurisdiction of his account to make an apportionment, if the case requires it, of the sum to be paid into his hands by such legatees, and for such further order relative thereof as the case may require.

§ 5. All executors, administrators and trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax in the same manner as they may be enabled to do by law for the payment of duties of their testators and intestates, and the amount of said tax shall be paid as hereinafter directed.

§ 6. Every sum of money retained by any executor, administrator or trustee, or paid into his hands for any tax on any property, shall be paid by him within thirty days thereafter to the treasurer of the proper county, and the said treasurer or treasurers, shall give, and every executor, administrator or trustee shall take, duplicate receipts from him of said payments, one of which receipts he shall immediately send to the State treasurer, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof, and shall seal said receipt with the seal of his office and countersign the same and return it to the executor, administrator or trustee, whereupon it shall be a proper voucher in the settlements of his accounts, but the executor, administrator or trustee shall not be entitled to credit in his accounts or be discharged from liability for such tax unless he shall purchase a receipt so sealed and countersigned by the treasurer, and a copy thereof certified by him.

§ 7. Whenever any of the real estate of which any decedent may die seized shall pass to any body politic or corporate, or to any person or persons, or in trust for them, or some of them, it shall be the duty of the executor, administrator or trustee of such decedent to

give information thereof in writing to the treasurer of the county where said real estate is situated, within six months after they undertake the execution of their respective duties, or if the fact be not known to them within that period, then within one month after the same shall have come to their knowledge.

§8. Whenever debts shall be proved against the estate of the decedent after distribution of legacies from which the inheritant tax has been deducted, in compliance with this act, and the legatee is required to refund any portion of the legacy, a proportion of the said tax shall be repaid to him by the executor or administrator, if the said tax has not been paid into the State or county treasury, or by the county treasurer if it has been so paid.

§9. Whenever any foreign executor or administrator shall assign or transfer any stocks or loans in this State standing in the name of decedent, or in trust for a decedent, which shall be liable to the said tax, such tax shall be paid to the treasury or treasurer of the proper county on the transfer thereof; otherwise, the corporation forming such transfer shall become liable to pay such taxes, provided that such corporation has knowledge before such transfer that said stocks or loans are liable to such taxes.

41 §10. When any amount of said tax shall have been paid erroneously to the State treasury, it shall be lawful for him, on satisfactory proof rendered to him by said county treasurer of said erroneous payments, to refund and pay to the executor, administrator or trustee, person or persons, who have paid any such tax in error, the amount of such tax so paid; provided that all applications for the repayment of said tax shall be made within two years from the date of said payments.

§11. In order to fix the value of property of persons whose estate shall be subject to the payment of said tax, the county judge, on the application of any interested party, or upon his own motion, shall appoint some competent person as appraiser as often as, or whenever, occasion may require, whose duty it shall be forthwith to give such notice by mail to all persons known to have or claim an interest in such property, and to such persons as the county judge may by order direct, of the time and place he will appraise such property, and at such time and place to appraise the same at a fair market value, and for that purpose the appraiser is authorized by leave of the county judge to use subpœnas for and to compel the attendance of witnesses before him, and to take the evidence of such witnesses under oath concerning such property and the value thereof, that he shall make a report thereof and of such value in writing to said county judge with the depositions of the witnesses examined and such other facts in relation thereto, and to said matter as said county judge may by order require to be filed in the office of the clerk of said county court, and from this report the said county judge shall forthwith use and fix the then cash value of all estates, annuities and life estates or terms of years growing out of said estate, and the tax to which the same is liable, and shall imme-

diately give notice by mail to all parties known to be inter-
42 ested therein. Any person or persons dissatisfied with the appraisement or assessment may appeal therefrom to the county court of the proper county within sixty days after the making and filing of such appraisement or assessment, on paying the given security proof to the county judge to pay all costs, together with whatever taxes that shall be fixed by said court. The said appraiser shall be paid by the county treasurer out of any funds he may have in his hands on account of said tax, on the certificate of the county judge, at the rate of $3 per day for every day actually and necessarily imployed in said appraisement, together with his actual and necessary travelling expenses.

§ 12. Any appraiser appointed by this act who shall take any fee or reward from any executor, administrator, trustee, legatee, next of kin or heir of any decedent, or from any other person liable to pay said tax or any portion thereof shall be guilty of a misdemeanor, and upon conviction in any court having jurisdiction of misdemeanors, he shall be fined not less than $250, nor more than $500, and imprisonment not exceeding ninety days, and in addition thereto the county judge shall dismiss him from such service.

§ 13. The county court in the county in which the real property is situated, of the decedent who is not a resident of the State, or in the county in which the deceased was a resident at the time of his death, shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this act, and the county court first acquiring jurisdiction hereunder shall retain the same to the exclusion of every other.

§ 14. If it shall appear to the county court that any tax accruing under this act has not been paid according to law, it shall issue a summons summoning the persons interested in the property
43 liable to the tax to appear before the court on a day certain, not more than three months after the date of such summons, to show cause why said tax should not be paid. The process, practice and pleadings and the hearing and determination thereof, and the judgment in said court in such cases shall be the same as those now provided or which may hereafter be provided in probate cases in the county courts in this State, and the fees and costs in such cases shall be the same as in probate cases in the county courts of this State.

§ 15. Whenever the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act, after the refusal or neglect of the person interested in the property liable to pay said tax, to pay the same, he shall notify the State attorney of the proper county, in writing, of such refusal to pay said tax, and the State's attorney so notified, if he has proper cause to believe a tax is due and unpaid shall prosecute the proceeding in the county court in the proper county, as provided in sec. 14 of this act, for the enforcement and collection of such tax, and in such case said court shall allow as costs in the said case such fees to said attorney as he may deem reasonable.

§ 16. The county judge and county clerk of each county shall,

every three months, make a statement in writing to the county treasurer of the county of the property from which, or the party from whom he has reason to believe a tax under this act is due and unpaid.

§ 17. Whenever the county judge of any county shall certify that there was probable cause for issuing a summons, and taking the proceedings specified in § 14 of this act, the State treasurer shall pay or allow to the treasury of any county all expenses incurred for service of summons and his other lawful disbursements that has not otherwise been paid.

44 § 18. The treasurer of the State shall furnish to each county judge a book in which he shall enter the returns made by appraisers, the cash value of annuities, life estates and terms of years and other property fixed by him, and the tax assessed thereon and the amounts of any receipts for payments thereon filed with him, which books shall be kept in the office of the county judge as a public record.

§ 19. The treasurer of each county shall collect and pay the State treasurer all taxes that may be due and payable under this act, who shall give him a receipt therefor, of which collection and payment he shall make a report under oath to the auditor of public accounts on the first Monday of March and September of each year, stating for what estate paid, and in such form and containing such particulars as the auditor may prescribe, and for all said taxes collected by him and not paid to the State treasurer by the first day of October and April of each year, he shall pay the interest at the rate of ten per cent. per annum.

§ 20. The treasurer of each county shall be allowed to retain 2% on all taxes paid and accounted for by him under this act, in full for his services in collecting and paying the same, in addition to his salary or fees now allowed by law.

§ 21. Any person or body politic or corporate shall upon the payment of the sum of fifty cents, be entitled to a receipt from the county treasurer of any county or the copy of the receipt, at his option, that may have been given by said treasurer for the payment of any tax under this act, to be sealed with the seal of his office, which receipt shall designate on what real property, if any, of which any deceased may have died seized, said tax has been paid and by whom paid, and whether or not it is in full of said tax, and said receipt may be recorded in the clerk's office of said county in which the property may be situated, in the book to be kept by said clerk for such purpose.

45 § 22. The lien of the collateral inheritance tax shall continue until the said tax is settled and satisfied: Provided, that said lien shall be limited to the property chargeable therewith; and provided, further, that all inheritance taxes shall be sued for within five years after they are due and legally demandable, otherwise they shall be presumed to be paid and cease to be a lien as against any purchasers of real estate.

§ 23. All laws or parts of laws inconsistent herewith, be, and the same are hereby, repealed.

EXHIBIT D.

UNITED STATES OF AMERICA:

STATE OF ILLINOIS, } ss:
County of Cook, }

Pleas before the Honorable Orrin N. Carter, sole presiding judge of the county court of Cook county, in the State of Illinois, at a regular term of said county court of Cook county, begun and holden at the court-house, in the city of Chicago, in said county and State, on the second Monday, being the 12th day, of November, in the year of our Lord one thousand nine hundred, and of the Independence of the United States of America the one hundred and twenty-fifth.

Present: The Honorable Orrin N. Carter, judge of the county court of Cook county. Ernest J. Magerstadt, sheriff of Cook county.
Attest: PHILIP KNOPF, *Clerk.*

Be it remembered that heretofore, to wit: on the 26th day of November, in the year of our Lord one thousand nine hundred, the same being one of the days of November term of the county court of Cook county, the following appraiser's report was filed with the clerk of said court in words and figures, to wit:

46 *Appraiser's Report.*

STATE OF ILLINOIS, } ss:
Cook County, }

In the County Court of Cook County.

In the Matter of the Estate of TIMOTHY B. BLACKSTONE, Deceased.
Docket No. 723. Inheritance Tax.

To the Honorable Orrin N. Carter, county judge:

I, the undersigned, who was on the 29th day of September, 1900, appointed appraiser under and pursuant to the statutes of the State of Illinois relating to the taxation of gifts, legacies and inheritances in certain cases, approved June 15, 1895, in force July 1, 1895, to fix the fair market value of the property of the estate of said Timothy B. Blackstone, deceased, subject to taxation under said act, respectfully report as follows:

First. Forthwith after said appointment, appearance and waiver of notice by mail to all persons known to have or claim an interest in the property of said decedent subject to assessment, and to such persons as the county judge by order directed, of the time and place at which I would appraise said property was filed waiver of service of said notice is marked Exhibit "A" hereto attached and made a part hereof.

Second. At the time and place in said appearance and waiver stated, to wit, at room 310 100 Washington street, in the city of

Chicago, Illinois, at the hour of 2 p. m. on the 2d day of October, 1900, and thereafter from time to time, pursuant to adjourn-
47 ments regularly had, I proceeded to appraise all such property of the estate of said deceased subject to taxation under said act, and to take evidence in writing under oath of the several witnesses produced concerning said property and the fair market value thereof at the time of the death of said decedent, which depositions so far as the same were taken are hereto attached and made a part of this report, together with certain documentary evidence produced marked Exhibit "B."

And from said appraisement and evidence I find that said decedent Timothy B. Blackstone died seized of property subject to said inheritance tax and that the fair market value of such property of said estate at the time of said decedent's death, and of the several estates, legacies and interests growing out of said estate and passing by reason of the death of said decedent, and the persons entitled therein as heirs, devisees, etc., to be as follows:

SCHEDULE I.

Estate of Timothy B. Blackstone, Deceased.

Date of decedent's death, May 26th, A. D. 1900.
Residence of decedent, Chicago, Cook county, Illinois.
Property transferred by will.
Record of will, Book 33, page 332.
Date of letters, July 17th, A. D. 1900.
Names, titles and addresses of legal representatives, etc.
Isabella F. Blackstone, executrix, 252 Michigan Ave., Chicago, Ills.
Names of persons appearing at appraisement in behalf of estate.
William Brown, attorney for all parties in interest.

48 SCHEDULE II.

Inventory of Decedent's Estate.

	Fair market value.
Real property:	
Lot nine (9) block thirteen (13) fractional section fifteen (15) addition to Chicago improved.....	184,000 00
Northeast quarter (¼) of section thirty-two (32) township (36) range one (1) being one hundred and fifty-seven acres in La Salle county, Illinois; also the west three-quarters (¾) and the southwest quarter (¼) of section thirty-two (32) township thirty-six (36) range one (1) being one hundred and fourteen acres in La Salle county, Illinois, improved with a house and barn on the above-described property.....	29,693 00
Subdivision of north 32–66 in east 45–44 in the southeast quarter (¼) lot six (6) block two (2) Mendota, Illinois.....	200 00

Subdivision north 32–66 east 45–44 southeast quarter (¼) lot twelve (12) block two (2) Mendota, Illinois...	200 00
Lots two (2) and three (3) block twenty-eight (28) Mendota, Illinois	200 00
West sixty (60) feet lot eleven (11) block twenty-nine (29) Mendota, Illinois	100 00
Lot twelve (12) block twenty-nine (29) Mendota, Illinois	200 00
East half (½) section nineteen (19) Will county, Illinois; also southeast quarter (¼) of section twenty (20) Will county, Illinois.....	22,000 00
Total fair market value.....	236,793 00

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Personal property :

	Fair market value.
Cash on deposit in bank at Chicago, Cook county, Illinois	2,355 86
Cash on deposit with Culver, Morgan & Company, New York city, N. Y.....	10,692 24
Cash on deposit with United States Trust Co., New York city, N. Y.....	4,843,456 72
500 shares of the capital stock of the Illinois Railroad Company of the par value of $100 each	56,500 00
2 shares of the capital stock of Kansas City, St. Louis & Chicago Railroad Company of the par value of $100 each.....	300 00
528 shares of the capital stock of the Joliet & Chicago Railroad Company of the par value of $100 each...	75,200 00
121 shares of the capital stock of the Louisiana & Missouri River Railroad Company of the par value of $100 each.....	12,100 00
653 shares of the capital stock of the Illinois & Mississippi Telegraph Company of the par value — $100 each	65,300 00
160 shares of the Union Rendering Company stock of the par value of $100 each.....	16,000 00
250 shares of the capital stock of Chicago Auditorium Association of the par value of $100 each.....	2,500 00
8 bonds of the Louisville & Nashville Railroad Company for the principal sum of $1,000 each.....	8,000 00
4 bonds of the Mississippi River Bridge Company for the principal sum of $1,000 each.....	4,000 00
16 bonds of the Chicago Club for the principal sum of $100 each.....	1,600 00
50 Goods and chattels owned and possessed by the decedent at the time of death of the value of..	599 00
100 shares of the capital stock of the Atlas National Bank of Chicago, par value $100 each.....	2,000 00
Total value of personalty	5,104,603 82

Summary.

Total personal property	$5,104,603.82
Total real property	236,793.00
Grand total	$5,341,396.82

Deductions.

Debts of decedent allowed	$4,568.70
Cost of administration allowed	151,138.11
Total deductions	$155,706 81
Clear, fair market value of decedent's estate	$5,185,690.01

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SCHEDULE III.

Taxable Estates and Interests Growing Out of the Estate of Timothy B. Blackstone, Deceased.

Estates, beneficiaries, relationship, and description of property.	Appraised fair market value.	Statutory exemption.	Rate.	Taxable cash value.
Ellen B. Plant, niece of said decedent, receives under the terms and provisions of his said last will and testament..	25,000.00	2,000	2%	23,000.00
William L. Harrison, grandnephew of said decedent, receives under the terms and provisions of his said last will and testament the sum of.	30,000.00	2,000	2%	28,000.00
Paul Harrison, grand nephew of said decedent, receives under the terms and provisions of his said last will and testament the sum of.	30,000.00	2,000	2%	28,000.00
Gertrude Harrison, grandniece of said decedent, receives under the terms and provisions of his said last will and testament the sum of.	20,000.00	2,000	2%	18,000.00
George Blackstone, nephew of said decedent, receives under the terms and provisions of his said last will and testament the sum of.	50,000.00	2,000	2%	48,000.00
52				
Adelaide Blackstone, niece of said decedent, receives under the terms and provisions of his said last will and testament the sum of.	20,000.00	2,000	2%	18,000.00
Mrs. Emma Pond, niece of said decedent, receives under the terms and provisions of his said last will and testament the sum of.	20,000.	2,000	2%	18,000.00

Schedule III—Continued.

Estates, beneficiaries, relationship, and description of property.	Appraised fair market value.	Statutory exemption.	Rate.	Taxable cash value.
William N. Blackstone, nephew of said decedent, receives under the terms and provisions of his said last will and testament the sum of	250,000.00	2,000	2%	248,000.00
Harriet B. Camp, niece of said decedent, receives under the terms and provisions of his said last will and testament the sum of	25,000.00	2,000	2%	23,000.00
Frances Ella Huntington, niece of said decedent, receives under the terms and provisions of his said last will and testament the sum of	25,000.00	2,000	2%	23,000.00
Lorenzo Blackstone, grand-nephew of said decedent, receives under the terms and provisions of his said last will and testament the sum of	25,000.00	2,000	2%	23,000.00
53				
Morton F. Plant, nephew of said decedent, receives under the terms and provisions of his said last will and testament the sum of	10,000.00	2,000	2%	8,000.00
William J. Bryson, stranger in blood to decedent, receives under the terms and provisions of his said last will and testament the sum of	15,000.00	None.	4%	15,000.00
Susan Jones, stranger in blood to decedent, receives under the terms and provisions of his said last will and testament the sum of	5,000.	None.	3%	5,000.00
James Blackstone Memorial Library Association of Branford, Connecticut, receives under the terms and provisions of decedent's last will and testament the sum of	100,000.	None.	6%	100,000.00
Art Institute of Chicago receives under the terms and provisions of decedent's last will and testament the sum of	25,000.00	None.	5%	25,000.00
Chicago orphan asylum receives under the terms and provisions of decedent's last will and testament the sum of	25,000.	None.	5%	25,000.00
Home for the Friendless, Chicago, receives under the terms and provisions of decedent's last will and testament the sum of	25,000.	None.	5%	25,000.00

Schedule III—Continued.

Estates, beneficiaries, relationship, and description of property.	Appraised fair market value.	Statutory exemption.	Rate.	Taxable cash value.
54				
St. Luke's hospital, Chicago, receives under the terms and provisions of decedent's last will and testament the sum of. ...	25,000.	None.	5%	25,000.00
Passavant Memorial hospital, Chicago, Illinois, receives under the terms and provisions of decedent's last will and testament the sum of.	25,000.	None.	5%	25,000.00
Chicago Relief and Aid Society, Chicago, Illinois, receives under the terms and provisions of decedent's last will and testament the sum of.	25,000.	None.	5%	25,000.00
Imbella F. Blackstone, widow of said decedent, receives under the terms and provisions of his said last will and testament all the rest, residue and remainder of his said estate, both real, personal and mixed, of every kind and nature and wherever situated; that the same is of the value as of the date of death of the sum of	4,385,690.01	20,000.	1%	4,365,690.01

55 SCHEDULE IV.

General Statement of Other Facts Relative to the Estates and Interests Growing Out of the Estate of Timothy B. Blackstone, Deceased.

The undersigned further reports that upon personal investigation he finds that the market value as of the date of death of the following-described stocks was as follows:

Capital stock of the Illinois Central Railroad Company $113 for each share of stock.

Kansas City, St. Louis and Chicago Railroad Company stock, market value $150 per share.

Joliet and Chicago Railroad Company stock, market value $150.

Chicago Auditorium Association stock, market value $10.00 per share.

Atlas National Bank of Chicago stock, market value $20.00 per share.

The undersigned further finds that the following-described assets of the estate of Timothy B. Blackstone, deceased, are of no value and not collectible.

Three bonds of the Chicago Athenæum Association.

An open account with Willis M. Hitt for the sum of $3,331.41.

An open account of George M. Bogue for the sum of $1,000.00.

An open account of J. H. Wood for the sum of $5,000.00.

The undersigned further finds that Mary A. Plant, sister of said decedent died prior to the death of said decedent, and that by reason of said death the legacy of the said Mary A. Plant mentioned in decedent's last will and testament has lapsed.

The undersigned further reports that counsel for the executrix of said estate objected to each and all of the findings herein, and that each and all of said objections to said findings were overruled, to which counsel then and there duly excepted.

56

EXHIBIT A.

STATE OF ILLINOIS, } ss:
County of Cook, }

In the County Court of Cook County.

In the Matter of the Estate of TIMOTHY B. BLACKSTONE, Deceased.

I hereby enter the appearance and waive service of notice by mail, of Ellen B. Plant, William L. Harrison, Paul Harrison, Gertrude Harrison, George Blackstone, Adelaide Blackstone, Emma Pond, William H. Blackstone, Harriet B. Camp, Frances Ella Huntington, Lorenzo Blackstone, Morton F. Plant, William J. Bryson, Susan E. Jones, James Blackstone Memorial Library Association of Branford, Connecticut, Art Institute of Chicago, Chicago, orphan asylum, Home for the Friendless, Chicago, St. Luke's hospital, Passavant Memorial hospital, Chicago Relief & Aid Society, Isabella F. Blackstone, and that a hearing of the same may be had at room 310 100 Washington street, at the hour of two p. m., on the 2d day of November A. D. 1900, and thereafter from time to time, pursuant to adjournment before Oscar Hebel, Esq., appraiser, heretofore appointed by the county court; the above named being all the parties in interest in said estate.

57

WILLIAM BROWN,
Attorney for All Parties in Interest, Except for the Charitable Instituttions Last Named.
THE ART INSTITUTE, CHICAGO,
By W. H. CARPENTER, *Sec'y.*
CHICAGO & RELIEF AND AID SOC'Y,
By ERNEST A. HAMILL, *Its Treasurer.*
THE CHICAGO & HOME FOR THE FRIENDLESS,
By E. G. KEITH.
CHICAGO ORPHAN ASYLUM.
JOHN M. CLARK, *Vice-Pres.*

STATE OF ILLINOIS, } ss:
County of Cook, }

W. J. BRYSON, being first duly sworn, testified as follows:

Examined by Mr. WILLIAM BROWN:

Q. Mr. Bryson, where do you reside?
A. Chicago.
Q. How long have you resided here?
A. Thirty years.
Q. What were your relations to Timothy B. Blackstone?
A. I was his private secretary.
Q. Were you in that relation to him at the time of his death?
A. Yes.
Q. When did he die?
A. May 26th, 1900.
Q. I will ask you if by reason of your relation you had an intimate acquaintance with his property?
A. Yes, sir, I did.
Q. Who had charge of the property during his lifetime?
A. I did.
Q. Are you acquainted with lot 9 block 13 fractional section 15 being his property in Chicago?
A. Yes, sir.
58 Q. State, if you please, what in your judgment was the fair market cash value of that property on the 26th day of May, 1900.
A. About $150,000.
Q. Are you acquainted with the northeast quarter of section thirty-two township thirty-six, range one, one hundred and fifty-seven acres, in La Salle county, and the west three-fourths of the southeast quarter of section thirty-two, same township and range, one hundred and fourteen acres, in the same county—La Salle?
A. Yes, sir.
Q. State if you have had charge and supervision of it for the last fifteen or twenty years.
A. Yes.
Q. State in your judgment what it is worth.
A. It is worth about $29,000.
Q. Calling your attention to the third specified property in the inventory filed by Mrs. Blackstone, designated as unimproved property, and lots in Mendota, Ill., I will ask whether you are acquainted with them or not?
A. I am.
Q. You may state what is a fair valuation of those lots.
A. From $100 to $200 apiece.
Q. Directing your attention to the east half of the southeast quarter of section ten township forty-one range sixteen, Miller county, Mo., you may state whether that was improved or unimproved.
A. Unimproved.

Q. Has it ever been put to any use?

A. None whatever.

Q. State what, in your judgment, it is worth?

A. It is not worth more than $350, and I do not believe it is worth $100.

Q. Directing your attention to the east half of section nineteen and the southeast quarter of section twenty in Will county, Illinois, included in this inventory of Mrs. Blackstone's, you may state whether you know that property.

A. I do.

59 Q. State what in your judgment it is worth.

A. About $20,000.00, the fair cash value of it.

Q. I will ask you to state to the appraiser whether or not you have examined closely and carefully the specification of personal property described in the inventory now handed to you?

A. I have, yes.

Q. State whether or not that is a full, true and complete statement of all the personal property owned by Mr. Blackstone at the time of his death?

A. Yes, sir.

Q. There is no other?

A. No other.

Q. You may state whether or not in your judgment the valuations therein specified are a reasonable, fair cash value as to the particular items and the aggregate?

A. I think they are.

Examined by Mr. HEBEL:

Q. You testify that the inventory filed in the probate court of Cook county is a full and complete inventory of all the property, both real and personal, owned by Mr. Blackstone, the deceased?

A. I do.

Q. Everything he owned and possessed at the time of his death was included in that inventory filed in the probate court?

A. It was.

Q. You may state whether or not Mr. Blackstone conveyed away any of his property just prior to his death?

A. He did not.

Q. Did he place any funds or personal property in the hands of a trustee for the benefit of any third persons just prior to his death?

A. He did not.

Q. Did he convey to his wife any property either real or personal, just prior to his death?

A. No, sir.

Q. You may state whether all the beneficiaries named in the will are alive, or were alive at the date of Mr. Blackstone's death?

A. They were all alive except one.

Q. Which one?

A. Mary A. Plant.

60 Q. Can you state of your own knowledge when she died?

A. She died four or five weeks before Mr. Blackstone's death.

Statement of William Brown, Representing the Executrix of the Estate.

I desire to offer in evidence to the appraiser the order of the probate court approving the report and petition of the executrix as to the payment of the legacies named in the will, and also particularly that part of the adjudication or order of the probate court declaring the legacy of Mrs. Mary A. Plant lapsed.

Mr. BLACKSTONE examined by Mr. HEBEL:

Q. Can you state whether the relationship mentioned in will is the true one of each of the parties therein named?
A. Yes, sir.

Examined by Mr. BROWN:

Q. Please state if Mr. Blackstone at the time of his death was indebted to anybody other than for household expenses?
A. He was not.
Q. State whether those little indebtedness for household expenses and funeral expenses and the expenses of his last illness has been paid?
A. They have.
Q. By whom have they been paid?
A. His wife.
Q. The executrix of the will?
A. The executrix of the will.
Q. Out of her own funds?
A. Out of her own personal funds.
Q. Will you be kind enough to file with the appraiser a copy of the account showing what Mrs. Blackstone has paid out on that account?
A. I will do that.
Q. Will you be kind enough to furnish to the appraiser a statement of the deposits in New York which go to make up the aggregate of $4,854,148.96?
A. I will.

61 John T. O'Connell, real estate & loans, 88 Washington St.

CHICAGO, *October 20th*, 1900.

Estate of Timothy B. Blackstone, deceased; Oscar Hebel, appraiser.

Lot nine (9) block thirteen (13) fractional section fifteen (15) addition to Chicago. Said premises being the northwest corner of Michigan Ave. and Hubbard court, lot 80 x 173 feet to a 20-foot alley. Value $184,000.

I am of the opinion that the above valuation represents the present market value of the above-described property.

JOHN T. O'CONNELL.

Estate of T. B. Blackstone to I. F. Blackstone, Dr.

Sundry Bills Paid by I. F. Blackstone, Widow of the Late T. B. Blackstone, Prior to and Since the Time of His Death, Out of Her Personal Funds.

1900.		
M'ch 22.	Paid Gen'l O. O. Howard, donation	200.
Ap'l 3.	N. Shore poultry farm	4.05
	Pearson Dairy Co	7.44
5.	Wm. J. Bryson for March	250.00
	Laundry house bills	82.21
	Marshal-, Field & Co	41.40
	Vickery Bros	146.78
	John West	3.65
	Consumers' Co	28.50
	Edison Co	13.86
6.	Dr. Frank Billings	285.
7.	E. Wunhober	14.
May 21.	Electric fan	10.00
	Kindling wood	13.
62		
June 11.	Servants	320.
	C. P. Kimball & Co	21.
	Wm. J. Bryson for May	250.
	Kinsley and Bauman	28.90
	Sundry house bills	46.
	P. J. Hanswirth	11.75
	Horseshoeing and stable	32.
12.	Stanton & Co	24.14
	Vickery Bros	149.47
14.	Cone Bros. Co	37.50
15.	Consumers' Co	22.50
	Gas bills	11.20
20.	Western Electric Co	1.20
21.	Almine & Co	37.25
	Sinclair Bros	108.
June 21.	Funeral expenses	586.40
	Buffeum and Perego	649.
	A. Allen and Son	132.50
May 16.	Art Institute of Chicago	1,000.
		4,568.70

Appraiser's Report.

SCHEDULE II.

Inventory of Decedent's Estate.

Property.	Items.	Fair market value.
3 carriages	75.00 each	225.00
3 horses	75.00 "	225.00
2 double set harness	30.00	60.00
1 single " "	"	20.00
3 desks	10.00	30.00
1 table		5.00
3 book-cases	5.00	15.00
1 lounge		5.00
14 chairs	1.00	14.00
		$599.00

We the undersigned appraisers of the estate of Timothy B.
63 Blackstone, deceased, do hereby certify that the foregoing is a full just, and impartial appraisement of the personal estate of said deceased, subject to appraisement so far as the same has come to our sight or knowledge.

Witness our hands and seals this 25th day of September, 1900.

HARRY G. HALL, [SEAL.]
FRANK C. FARNUM, [SEAL.]
HENRY C. ANDERSON, [SEAL.]
Appraisers.

Approved in open court Sept. 26th, 1900.

JOHN H. BATTEN,
Acting Probate Judge of Cook County, Ills.

STATE OF ILLINOIS, }
County of Cook, } *ss:*

The People of the State of Illinois to Frank C. Farnum, Henry C. Anderson, Harry G. Hall, of the county of Cook and the State of Illinois, Greeting:

This is to authorize you jointly to appraise the goods, chattels and personal estate of Timothy B. Blackstone, late of the county of Cook, and State of Illinois, deceased, so far as the same shall come to your sight and knowledge, each of you having first taken oath hereto annexed, a certificate whereof you are to return, annexed to an appraisement bill of said goods, chattels and personal estate by you appraised in dollars and cents, and in the said bill of appraisement you are to set down in a column or columns, opposite to each article appraised, the value thereof.

Witness, James Reddick, clerk of probate court of Cook
[SEAL.] county, and the seal of said court, this 17th July, A. D. 1900.

JAMES REDDICK, *Clerk.*

64 We and each of us do solemnly swear that we will well and truly, without partiality or prejudice, value and appraise goods, chattels and personal estate of Timothy B. Blackstone, deceased, so far as the same shall come to our sight and knowledge, and that we will in all respects perform our duty as appraisers to the best of our skill and judgment.

FRANK C. FARNUM, [SEAL.]
HENRY C. ANDERSON, [SEAL.]
HARRY G. HALL, [SEAL.]
Appraisers.

Subscribed and sworn to before me, James Reddick, clerk of the probate court of Cook county, this 25th day of September, A. D. 1900.

JAMES REDDICK, *Clerk.*

STATE OF ILLINOIS, } ss:
County of Cook, }

I, James Reddick, clerk of the probate court of Cook county, and the keeper of the records and files thereof, in the State aforesaid, do hereby certify the annexed and foregoing to be a true and correct copy of the appraisement approved on the 26th day of September, A. D. 1900, in the matter of the estate of Timothy B. Blackstone, deceased, as appears from the original on file in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said probate court at my office, in the city of Chicago, in said county, this 3d day of October, A. D. 1900.

[SEAL.] (Stamp.)

JAMES REDDICK,
Clerk of the Probate Court.

65 EXHIBIT "B."

STATE OF ILLINOIS, } ss:
County of Cook, }

In the Probate Court Thereof, September Term, A. D. 1900.

In the Matter of the Estate of TIMOTHY B. BLACKSTONE, Deceased.

And now on this day comes Isabella F. Blackstone, executrix of the last will and testament of Timothy B. Blackstone, deceased, and exhibits and files this her inventory of the property, both real and personal belonging to the estate of Timothy B. Blackstone at the time of his death.

Real Property.

Lot 9, block 13, fran. sec. 15, add. to Chicago, improved. House and stable	$150,000.
N. E. ¼ sec. 32 T. 36 R. I. 157 acres La Salle Co. Ill. Improved. House & barn W. ½ and S. E. ¼ sec. 32 T. 36 R. I. 114 acres La Salle Co. Ill	29,693.
Unimproved subdiv. of N. 32 66 / a E. 45 44 / a S. E. ¼ Lot 6, bk. 2, Mendota, Ill.	
Unimproved subdiv. of N. 32 66 / a E. 45 44 / a S. E. ¼	200.00
Unimproved lot 12 bk. 2, Mendota, Ill	200.00
Unimproved lots 2 & 3 bk. 28 Mendota Ill	200.00
Unimproved lots 8 & 9 bk. 28 Mendota Ill	200.00
66 Unimproved W. 60 ft. lot 11 bk. 29 Mendota, Ill.	100.00
Unimproved lot 12 Mendota, Ill	200.00
Unimproved E. ½ S. E. ¼ sec. 10 T. 41 R. 16, Miller Co. Mo	350.00
Unimproved E. ½ sec. 19 Will Co. Ill. S. E. ¼ sec. 20 Will Co. Ill	22,000.00
	$203,143.00

Personal Property.

Deposit in bank, Chicago	$2,355.86
" " " New York city	4,854,148.96
500 shares Ill. Central R. R. stock	50,000.00
2 " Kansas City St. L. and Chicago R. R. stock.	200.00
528 shares Joliet and Chicago R. R. stock	52,800.00
121 shares Louisiana and Missouri River R. R. stock..	12,100.00
653 shares Ill. & Miss. Telegraph Co. stock	65,300.00
160 shares Union Rendering Co. stock	16,000.00
250 shares Chicago Auditorium Association stock	25,000.00
8 bonds Louisville & Nashville R. R. Co	8,000.00
4 bonds Miss. River Bridge Co	4,000.00
16 " (100. each Chicago Club)	1,600.00
	$5,091,504.82

100 shares Atlas nat. bank. No value.
3 bonds Chicago Athenæum Ass'n. No value.
Willis M. Hitt $3,331.41 doubtful
Geo. M. Bogue 1,000. "
J. H. Wood, 5,000. "

As per appraisement	599.

Recapitulation.

Real estate	$203,143.
Personal property	5,091,504.82
Appraisement	599.00
Total	$5,295,246.82

67 I, Isabella F. Blackstone, executrix of the last will and testament of Timothy B. Blackstone, deceased, do hereby certify that the foregoing is a full, true, complete and perfect inventory of all of the estate, both real and personal, belonging to the estate of said deceased, that has come to my hands, possession, sight or knowledge as such executrix.

(Signed) ISABELLA F. BLACKSTONE,
Executrix as Aforesaid.

September 25, A. D. 1900.

I, T. B. Blackstone, of the city of Chicago, county of Cook, and State of Illinois, being of sound mind and memory, do make publish and declare this to be my last will and testament hereby revoking all others by me heretofore made.

I.

I direct that all my just debts be paid as soon as conveniently may be after my decease.

II.

I give and bequeath to my sister Mary A. Plant the sum of fifty thousand dollars.

III.

I give and bequeath to my niece Ellen B. Plant the sum of twenty-five thousand dollars.

IV.

I give and bequeath to my grand-nephew William L. Harrison the sum of thirty thousand dollars.

V.

I give and bequeath to my grand-nephew Paul Harrison the sum of thirty thousand dollars.

VI.

I give and bequeath to my grandniece Gertrude Harrison the sum of twenty thousand dollars.

VII.

I give and bequeath to my nephew George Blackstone the sum of fifty thousand dollars.

68 VIII.

I give and bequeath to my niece Adelaide Blackstone the sum of twenty thousand dollars.

IX.

I give and bequeath to my niece Mrs. Emma Pond the sum of twenty thousand dollars.

X.

I give and bequeath to my nephew William N. Blackstone the sum of two hundred and fifty thousand dollars.

XI.

I give and bequeath to my niece Harriet B. Camp the sum of twenty-five thousand dollars.

XII.

I give and bequeath to Frances Ella Huntington the sum of twenty-five thousand dollars.

XIII.

I give and bequeath to my grand-nephew Lorenzo Blackstone the sum of twenty-five thousand dollars.

XIV.

I give and bequeath to my nephew Morton F. Plant the sum of ten thousand dollars.

XV.

I give and bequeath to my friend William J. Brysen the sum of fifteen thousand dollars.

XVI.

I give and bequeath to Susan E. Jones the sum of five thousand dollars.

XVII.

I give and bequeath to the James Blackstone Memorial Library Association of Branford, Connecticut, the sum of one hundred thousand dollars.

XVIII.

I give and bequeath to the "Art Institute of Chicago" the sum of twenty-five thousand dollars.

69

XIX.

I give and bequeath to the "Chicago orphan asylum" the sum of twenty-five thousand dollars.

XX.

I give and bequeath to the "Home for the Friendless" of and located in the city of Chicago, Illinois, the sum of twenty-five thousand dollars.

XXI.

I give and bequeath to "St. Luke's Hospital" of Chicago, Illinois, the sum of twenty-five thousand dollars.

XXII.

I give and bequeath to the "Passavant Memorial Hospital" of Chicago, Illinois, the sum of twenty-five thousand dollars.

XXIII.

I give and bequeath to the "Chicago Relief and Aid Society" of Chicago, Illinois, the sum of twenty-five thousand dollars.

XXIV.

I direct that the foregoing bequests shall be paid to the respective persons and the proper officer or officers of the respective corporations as soon after my decease as shall be convenient to my executrix; and to the end that the same may be seasonably and conveniently paid to the proper persons and corporations according to the intent expressed herein I hereby authorize and empower my executrix, in her discretion to make use of any of my bonds, stock or other securities and to use the same as so much money at their market value without converting such securities into money. This discretion is vested in my executrix exclusively and she may convert such securities into cash to pay each or all of the foregoing bequests or use the securities at their market value as she may deem most expedient.

70 XXV.

All the rest, remainder and residue of my estate, real, personal and mixed of every kind and nature and wherever situated, I give, devise and bequeath to my wife Isabella F. Blackstone and to her heirs, executors, administrators and assigns as and for her absolute estate and property forever.

XXVI.

I do nominate and appoint my wife, Isabella F. Blackstone to be the sole executrix of this my last will and testament and I do direct that she shall not be required to give any security on her bond as such executrix.

In witness whereof, I have hereunto set my hand and seal this second day of September, in the year of our Lord one thousand eight hundred and ninety-eight.

(S'g'd) T. B. BLACKSTONE. [SEAL.]

The foregoing instrument of writing composed of four half sheets and written upon only one side was on this second day of September, 1898, signed, sealed, published and declared by the said T. B. Blackstone as and for his last will and testament in our presence and we at his request and in his personal presence and in the presence of each other have hereunto signed our names as subscribing witnesses thereto.

(S'g'd) WM. BROWN,
Of Jacksonville, Ills.
WM. BROWN, JR.

Appraiser's Report.

The foregoing including the several schedules herein together with Exhibits "A" and "B" hereto attached, constitute a full and correct report of said appraisement is made by me pursuant to said order of appraisement.

Respectfully submitted this 26th day of November, A. D. 1900.

OSCAR HEBEL, *Appraiser.*

71 STATE OF ILLINOIS, } ss:
Cook County, }

Oscar Hebel, being duly sworn, says: That the foregoing report by him subscribed is a true and correct report of the appraisement made by him in the matter of said estate, and that he has faithfully and fairly performed the duties of such appraiser, according to the best of his understanding. OSCAR HEBEL.

Subscribed and sworn to before me this 26th day of November, A. D. 1900. PHILIP KNOPF,
County Clerk.

And on the same day, to wit, the 26th day of November, A. D. 1900, the following among other proceedings were had, and entered of record, to wit:

STATE OF ILLINOIS, } ss:
County of Cook, }

Before the Hon. Orrin N. Carter, County Judge of Cook County.

In the Matter of the Estate of TIMOTHY B. BLACKSTONE, Deceased.

Upon the report of Oscar Hebel the appraiser heretofore duly appointed to appraise the value of the property of the estate of said decedent subject to taxation, under and pursuant to the statutes of this State relating to the taxation of gifts, legacies and inheritances, this day presented and read, it appearing that said decedent Timothy B. Blackstone died on the 26th day of May, A. D. 1900, seized
72 of property subject to taxation pursuant to said statutes, and that due notice of the time and place of said appraisement was duly given to all persons known to have or claim any interest in said property and to such persons as were by order of the county judge directed; and it further appearing that the said Oscar Hebel, appraiser, has appraised the said property of said estate at its fair market value.

It is therefore ordered, that the said report of appraisement be and the same is hereby approved, and that the said report together with the depositions of witnesses and exhibits in said estate taken and returned herein be forthwith filed in the office of the clerk of the county court of Cook county, and

It is further ordered upon said report that the cash value of the several estates, annuities and life estates or terms of years growing out of the said estate of Timothy B. Blackstone, deceased, subject to taxation under said statutes and the tax to which the same are severally liable be and the same are hereby assessed and fixed as follows:

73 Beneficiary, relationship, and description of property.	Appraised value.	Exemptions.	Cash value of estate.	Tax.
Ellen B. Plant, niece of said decedent receives under the terms and provisions of his said last will and testament the sum of	25,000.00	2,000.	23,000.	460.00
William L. Harrison, grand-nephew of said decedent receives under the terms and provisions of his last will and testament the sum of	30,000.00	2,000.	28,000.	560.00
Paul Harrison, grand-nephew of said decedent receives under the terms and provisions of his said last will and testament the sum of	30,000.00	2,000.	28,000.	560.00
Gertrude Harrison, grandniece of said decedent receives under the terms and provisions of his last will and testament the sum of	20,000.	2,000.	18,000.	360.00
George Blackstone, nephew of said decedent receives under the terms and provisions of his said last will and testament the sum of	50,000.	2,000.	48,000.	960.00
Adelaide Blackstone, niece of said decedent receives under the terms and provisions of his said last will and testament the sum of	20,000.	2,000.	18,000.	360.00
Mrs. Emma Pond, niece of said decedent receives under the terms and provisions of his said last will and testament the sum of	20,000.	2,000.	18,000.	360.00
William N. Blackstone, nephew of said decedent receives under the terms and provisions of his said last will and testament the sum of	250,000.	2,000.	248,000.	4,960.00
74 Harriet B. Camp, niece of said decedent receives under the terms and provisions of his said last will and testament the sum of	25,000.	2,000.	23,000.	460.00
Frances Ella Huntington, niece of said decedent receives under the terms and provisions of his said last will and testament the sum of	25,000.	2,000.	23,000.	460.00
Lorenzo Blackstone, grand-nephew of said decedent receives under the terms and provisions of his said last will and testament the sum of	25,000.00	2,000.00	23,000.00	460.00
Morton F. Plant, nephew of said decedent receives under the terms and provisions of his said last will and testament the sum of	10,000.	2,000.	8,000.	160.00
William J. Bryson, stranger in blood to said decedent receives under the terms and provisions of his said last will and testament the sum of	15,000.	None.	15,000.	600.00
Susan E. Jones, stranger in blood to said decedent receives under the terms and provisions of his said last will and testament the sum of	5,000.	None.	5,000.	150.00
James Blackstone Memorial Library Association of Branford, Connecticut, receives under the terms and provisions of decedent's said last will and testament the sum of	100,000.	None.	100,000.	600.00
Art Institute of Chicago receives under the terms and provisions of decedent's said last will and testament the sum of	25,000.	None.	25,000.	1,250.00
Chicago orphan asylum receives under the terms and provisions of decedent's said last will and testament the sum of	25,000.	None.	25,000.	1,250.00

75 Home of the Friendless, Chicago, receives under the terms and provisions of decedent's said last will and testament the sum of	25,000.	None.	25,000.	1,250.00
St. Luke's hospital, Chicago, receives under the terms and provisions of decedent's last will and testament the sum of	25,000.00	None.	25,000.	1,250.00
Passavant Memorial hospital, Chicago, Illinois, receives under the terms and provisions of decedent's last will and testament the sum of	25,000.	None.	25,000.	1,250.00
Chicago Relief and Aid Society, Chicago, Illinois, receives under the terms and provisions of decedent's said last will and testament the sum of	25,000.	None.	25,000.	1,250.00
Isabella F. Blackstone, widow of said decedent, receives under the terms and provisions of his said last will and testament all the rest, residue and remainder of his said estate, both real and personal and mixed, of every kind and nature and wherever situate; that the same is of the value, as of the date of death of	4,385,690.01	20,000.	4,365,690.01	43,656.90

76 That the real estate succeeded to by the above named is described as follows:

Lot nine (9) block thirteen (13) fractional section fifteen (15) addition to Chicago. Improved.

Northeast quarter (¼) of section thirty-two (32) township thirty-six (36) range one (1) being one hundred and fifty-seven (157) acres in La Salle county, Illinois; also the west three-quarters (¾) and the southeast quarter (¼) of section thirty-two (32) township thirty-six (36) range one (1) being one hundred and fourteen (114) acres in La Salle county, Illinois, improved with a house and barn on the above-described property.

Subdivision of the north 32 66/a east 45 44/a in the southeast quarter (¼) lot six (6) block two (2) Mendota, Illinois.

Subdivision of north 32 66/a east 45 44/a southeast quarter (¼) lot twelve (12) block — (2) Mendota, Illinois.

Lots two (2) and three (3) block twenty-eight (28) Mendota, Illinois.

Lots eight (8) and nine (9) block twenty-eight (28) Mendota, Illinois.

West sixty (60) feet of lot eleven (11) block (29) Mendota, Illinois.

Lot twelve (12) block twenty-nine (29) Mendota, Illinois.

East half (½) of section nineteen (19) Will county, Illinois, also southeast quarter (¼) of section twenty (20) Will county, Illinois.

It is further ordered that the appraisement returned by the appraiser in his said report together with the cash value of the several estates, annuities, life estates and terms of years and other property growing out of said estate of Timothy B. Blackstone, deceased, and the tax thereon as assessed and fixed therein be entered in the public inheritance tax record of this county.

ORRIN N. CARTER,
County Judge.

77 UNITED STATES OF AMERICA:

STATE OF ILLINOIS, } ss:
Cook County, }

I, Philip Knopf, clerk of the county court of Cook county, and the keeper of the records and files thereof, in the State aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of a certain appraiser's report filed November 26th, A. D. 1900, and a certain order fixing tax, entered of record November 26th, 1900. In the matter of the estate of Timothy B. Blackstone, deceased.

In witness whereof, I have hereunto set my hand and
General affixed the seal of said court, at Chicago, in said county,
No. 723. this 13th day of December, 1900.

[SEAL.] PHILIP KNOPF, *Clerk.*

STATE OF ILLINOIS, } ss:
County of Cook, }

I, Orrin N. Carter, county judge of Cook county, and sole presiding judge of the county court of Cook county, in the State of Illinois, do hereby certify that Philip Knopf, Esq., whose name is subscribed to the foregoing certificate of attestation, now is and was at the time of signing and sealing the same, the clerk of the county court of Cook county, aforesaid, and keeper of the records and seal thereof, duly elected and qualified to office, and that full faith and credit are, and of right ought to be, given to all his official acts as such, in all courts of record and elsewhere, and that his said attestation is in due form of law and by the proper officer.

Given under my hand and seal, at my chambers in Chicago, this 13th day of December, A. D., 1900.

ORRIN N. CARTER, [SEAL.]
County Judge.

78 *Clerk's Certificate of Judge's Signature.*

STATE OF ILLINOIS, } ss:
County of Cook, }

I, Philip Knopf, clerk of the county court of Cook county, in the State of Illinois (said court being a court of record), do hereby certify that the Hon. Orrin N. Carter, whose name is subscribed to the annexed and foregoing certificate, was, at the time of the signing thereof, and now is, the county judge of said Cook county, and sole presiding judge of said county court of Cook county, duly elected, commissioned and qualified, and that his said signature is genuine.

In witness whereof, I have signed my name and affixed the seal of said county court, at my office in the city of Chicago, in said Cook county, this 13th day of December, 1900.

[SEAL.] PHILIP KNOPF, *Clerk.*

EXHIBIT E.

Inheritance Tax Receipt.

(Duplicate.)

No. 553.

Office of the county treasurer.

CHICAGO, ILL., *November 26th*, 1900.

STATE OF ILLINOIS, } ss:
Cook County, }

Received of Isabella F. Blackstone, executrix of the estate of Timothy B. Blackstone, deceased, sixty-four thousand six hundred and twenty-five and 56/100 dollars ($64,625 56/100) the same being in full for the inheritance tax levied and assessed upon the right of succession to a certain devise, legacy, inheritance of the following-described property, to wit:

79 Description.	Section.	Town.	Range.	Sublot.	Lot.	Block.	Appraised value.	Cash value taxed.	Tax rate.	Amount of tax.
Real estate in Cook county, Illinois.										
Fractional section 15 add. to Chicago	15	39	14			13				
					9	"				
Real estate in La Salle county, Illinois.										
N. E. ¼	32	16	1							
W. ½ S. E. ¼	32	16	1							
Subd. of N. 32 66/100 acs.	32	16	1		6	2				
					12	"				
E. 45 44/100 acs. S. E. ¼					2	28				
					3	"				
Village of Mendota					8	"				
		W	60 ft.		9	"				
					11	29				
					12	"				
Real estate in Will county, Illinois.										
E. ½	19	32	9							
S. E. ¼	20	32	9							
Total value of real estate							236,793			
Total value of personal property as per inventory							5,104,603.82			
Total value of estate							5,341,396.82			
Less costs and claims allowed						155,706.81				
Less total exemptions						44,000	199,706.81			
Carried forward							5,141,690.01			

		Appraised value.	Cash value taxed.	Tax rate.	Amount of tax.
Brought forward			5,141,690.01		
Tax assessed upon the rights of succession to legacies and devises growing out of the above-described estate of Timothy B. Blackstone, deceased, as devised under the last will and testament of said decedent, as follows:					
Ellen B. Plant, niece of decedent		25,000.00	23,000.00	2%	
Gross tax	460.				
Less five per centum	23.				
Net tax					437.00
William L. Harrison, nephew of decedent		30,000.00	28,000.00	2%	
Gross tax	560.00				
Less five per centum	28.00				
Net tax					532.00
Paul Harrison, nephew of decedent		30,000.00	28,000.00	2%	
Gross tax	560.00				
Less five per centum	28.00				
Net tax					532.00
Gertrude Harrison, niece of decedent		20,000.00	18,000.00	2%	
Gross tax	360.00				
Less five per centum	18.00				
Net tax					342.00
Carried forward					1,843.00

3235

		Appraised value.	Cash value taxed.	Tax rate.	Amount of tax.
81					
Brought forward					1,843.00
George Blackstone, nephew of decedent		50,000.00	48,000.00	2%	
Gross tax	960.00				
Less five per centum	48.00				
Net tax					912.00
Adelaide Blackstone, niece of decedent		20,000.00	18,000.00	2%	
Gross tax	360.00				
Less five per centum	18.00				
					342.00
Mrs. Emma Pond, niece of decedent		20,000.00	18,000.00	2%	
Gross tax	360.00				
Less five per centum	18.00				
Net tax					342.00
William N. Blackstone, nephew of decedent		250,000.00	248,000.00	2%	
Gross tax	4,960.00				
Less five per centum	248.00				
Net tax					4,712.00
Harriet B. Camp, niece of decedent		25,000.00	23,000.00	2%	
Gross tax	460.00				
Less five per centum	23.00				
Net tax					437.00
Carried forward					8,588.00

82					
Brought forward					8,588.00
Frances Ella Huntington, niece of decedent		25,000.00	23,000.00	2%	
Gross tax	460.00				
Less five per centum	23.00				
Net tax					437.00
Lorenzo Blackstone, nephew of decedent		25,000.00	23,000.00	2%	
Gross tax	460.00				
Less five per centum	23.00				
Net tax					437.00
Morton F. Plant, nephew of decedent		10,000.00	6,000.00	2%	
Gross tax	160.00				
Less five per centum	8.00				
Net tax					152.00
William J. Bryson, stranger in blood		15,000.00	15,000.00	4%	
Gross tax	600.00				
Less five per centum	30.00				
Net tax					570.00
Susan Jones, stranger in blood		5,000.00	5,000.00	3%	
Gross tax	150.00				
Less five per centum	7.50				
Net tax					142.50
James Blackstone Memorial Library Association		100,000.00	100,000.00	6%	
Gross tax	6,000.00				
Less five per centum	300.00				
Net tax					5,700.00
Art Institute of Chicago		25,000.00	25,000.00	5%	
Gross tax	1,250.00				
Less five per centum	62.50				
Net tax					1,187.50

33236

		Appraiced value.	Cash value taxed.	Tax rate.	Amount of tax.
83	Chicago orphan asylum	25,000.00	25,000.00	5%	
	Gross tax 1,250.00				
	Less five per centum 62.50				
	Net tax				1,187.50
	Home for the Friendless, Chicago	25,000.00	25,000.00	5%	
	Gross tax 1,250.00				
	Less five per centum 62.50				
	Net tax				1,187.50
	St. Luke's hospital, Chicago	25,000.00	25,000.00	5%	
	Gross tax 1,250.00				
	Less five per centum 62.50				
	Net tax				1,187.50
	Passavant Memorial hospital, Chicago	25,000.00	25,000.00	5%	
	Gross tax 1,250.00				
	Less five per centum 62.50				
	Net tax				1,187.50
	Chicago Relief and Aid Society, Chicago	25,000.00	25,000.00	5%	
	Gross tax 1,250.00				
	Less five per centum 62.50				
	Net tax				1,187.50
	Isabella F. Blackstone, widow of decedent	4,385,690.01	4,385,690.01	1%	
	Gross tax 43,656.90				
	Less five per centum 2,182.84				
	Net tax				41,474.06
					$64,625.56

S. B. RAYMOND, *County Treasurer.*

84 STATE OF ILLINOIS, } ss:
Cook County, }

I, Philip Knopf, county clerk of the county court in and for said county, do hereby certify that S. B. Raymond, Esq., is the treasurer in said county, duly commissioned and sworn, and whose acts as such are entitled to credit; that his commission bears date of December 3d, A. D. 1898, and will expire in December, A. D. 1902.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at the city of Chicago, in said county, this 10th day of December, 1900.

PHILIP KNOPF, *Clerk.*

Affidavit Submitted by Executrix, Read on Behalf of Appellant.

Surrogate's Court, New York County.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COUNTY OF NEW YORK, ss:

Henry L. Thornell, being duly sworn, deposes and says:

First. That he resides in the city of New York and is the
85 secretary of the United States Trust Company of New York.

Said trust company was incorporated and exists under chapter 204 of the Laws of 1853, as amended by chapter 60 of the Laws of 1863, by chapter 309 of the Laws of 1874, by chapter 433 of the Laws of 1892, and by the general banking law of the State of New York.

Second. That he has read the answering affidavit herein, verified by Isabella F. Blackstone, individually and as executrix, etc., of Timothy B. Blackstone, deceased, on the 17th day of December, 1900, and that said affidavit, so far as it relates to the deposit made by said Timothy B. Blackstone, on the 31st day of March, 1899, with said trust company, is true; the agreement for such deposit was embodied in a letter from said Timothy B. Blackstone to said trust company, dated March 16, 1899, an answer thereto, dated March 16, 1899, two further communications from said Timothy B. Blackstone, dated March 29, 1899, and a letter of acknowledgment to him from said trust company dated March 31, 1899, copies of such correspondence are hereto annexed, marked Exhibits A, B, C, D and E, respectively, and made part of this affidavit; such deposit was made by transferring the sum of $4,881,522.21 from the account with said trust company to the credit of the persons associated together in the purchase of the stock of the Chicago and Alton Railroad Company, to a separate account to the credit of said Timothy B. Blackstone; such transfer consisted in book entries and the drawing of said trust company's check to its own order as a memorandum charge of the transaction, subject only to the right of said trust company to ask for two days' notice if a draft for more than $100,000 was made, this

deposit could have been withdrawn at any time by said Timothy B. Blackstone; said trust company issued no certificate of deposit nor pass book at the time it undertook such deposit; and the only
86 entry evidencing such deposit was the account so opened in said trust company's ledger, entitled "Deposits in trust. Draft account." A true copy of such account, showing the balance due thereon, as of May 26th, 1900, is hereto annexed as part of this affidavit, and marked Exhibit F.

Third. That said trust company is not by law authorized to do and does not in fact do the business of an ordinary bank of deposit; said trust company neither receives nor pays out, nor keeps in its possession any cash; it is not required by law to maintain, nor does it maintain any lawful money reserve, and all its contracts of deposit are in terms to be repaid in current funds; substantially all deposits made with said trust company are in the form of checks, drafts or other orders for the payment of money; these deposits are in their turn deposited by said trust company in one of its regular banks of deposit for collection, and the funds are drawn out of said banks by checks drawn upon them by said trust company; deposits with said trust company are paid either by a check drawn by it upon one of its banks of deposit, or drawn upon it and paid by a check drawn upon one of said banks; in the case of its ordinary deposits said trust company has the right of five days' notice before it can be called upon to repay the amount deposited; this right although not ordinarily availed of enables the trust company safely and profitably to keep all but a comparatively small portion of its assets permanently invested in loans on collateral, United States Government bonds, New York City bonds, corporate stocks and bonds, bonds and mortgages and other securities, and that on the 26th day of May, 1900, its assets were so fully invested that it did not have on deposit in any bank or banks a sum in excess of $3,800,000.

87 Fourth. That the corporate procedure outlined in the foregoing paragraph of this affidavit was part of the deposit agreement of March 31, 1899, made with said trust company by the said Timothy B. Blackstone, deceased, and regulated all of said trust company's transactions in connection with such deposit.

H. L. THORNELL.

Sworn before me this 10th day of January, 1901.

DANIEL MOYNAHAN,
Notary Public, Kings Co.

Cert. filed N. Y. Co.

EXHIBIT A.

(Copy.)

CHICAGO, *March 16th*, 1899.

John A. Stewart, Esq., pres't U. S. Trust Co., 47 Wall St., New York.

DEAR SIR: There are several parties who desire to purchase the Chicago and Alton shares owned by me and those with the care of which I am especially charged. Should I agree to sell them I shall be glad if you will kindly advise me whether I am at liberty to make it one of the conditions of the sale that the price agreed upon shall be deposited with the U. S. Trust Co., for my account. If I sell my stock I am at a loss to know how I can safely invest the proceeds, and may wish to deposit a considerable sum for several months with the U. S. Trust Co.

Having no information relative to the rules or practice of the trust Co., I shall be glad if you will advise me as to the terms upon which I would be permitted to deposit and withdraw the
88 same, assuming that present rates for money continue without material change.

Very truly yours, T. B. BLACKSTONE.

EXHIBIT B.

NEW YORK, *March 18th*, 1899.

T. B. Blackstone, Esq., Chicago.

MY DEAR SIR: Your favor of the 16th instant has been received this day. In the absence of Mr. Stewart I desire to say, that in case of sale by you of the stock referred to, we would be willing to accept on deposit for your account the proceeds of such sale, holding the same subject to your order by draft on us, and allow interest thereon at the rate of two per cent. per annum, subject, however, to reduction in the rate of interest, if we so elect, upon notice to you.

Should payments be required in excess of $100,000 at any time, we should expect to receive at least two days' notice of your intention to draw upon us.

Very truly, J. S. CLARK,
2d Vice-President.

EXHIBIT C.

(Copy.)

CHICAGO, *March* 29, '99.

United States Trust Company of New York, 45 Wall street, New York city.

GENTLEMEN: I hand you herewith for deposit and sale under the agreement concerning purchase of stock of the Chicago and Alton Railroad Company, lodged with you, dated January 28, 1899, between John J. Mitchell and others, certificates Nos.:

8—423

89

	B't forward: 3000	B't forward: 7900
118– 100 shares	B 2439– 100 shares.	A 5395– 100 shs.
150– 100 "	3886– 100 "	5419
151– 100 "	3887– 100 "	to
366– 100 "	3889– 100 "	5425– 700 "
367– 100 "	3897– 100 "	5449– 100 "
369– 100 "	4034– 100 "	5450– 100 "
381– 100 "	4035– 100 "	5453– 100 "
764– 100 "	4036– 100 "	5512– 100 "
765– 100 "	4037– 100 "	5513– 100 "
889– 100 "	4038– 100 "	5523– 100 "
973– 100 "	4314– 100 "	5525– 100 "
974– 100 "	4315– 100 "	5564– 100 "
1143– 100 "	4341– 100 "	5565– 100 "
1144– 100 "	4342– 100 "	5583– 100 "
1215– 100 "	4343– 100 "	5584– 100 "
1216– 100 "	4344– 100 "	5585– 100 "
1217– 100 "	4345– 100 "	5692
1218– 100 "	4346– 100 "	to
1269– 100 "	4369	5717–2600 "
1561– 100 "	to	
1562– 100 "	4388–2000 "	6009
1563– 100 "	4499– 100 "	to
1564– 100 "	4500– 100 "	6028–2000 "
1565– 100 "	4501– 100 "	B 138– 50 "
2058– 100 "	4502– 100 "	245– 50 "
2059– 100 "	4503– 100 "	271– 50 "
2060– 100 "	4504– 100 "	1186– 50 "
2061– 100 "	4505– 100 "	1506– 50 "
2062– 100 "	4882– 100 "	1507– 50 "
2438– 100 "	4919– 100 "	1546– 50 "
	4920– 100 "	1773– 50 "
Forward 3000	5328– 100 "	C 320– 25 "
		3840– 31 "
	Forward 7900	6953– 38 "
		7760– 26 "
		8940– 38 "
		10650– 4 "
		12435– 15 "
		Total.. 15077 "

of the common stock of the Chicago and Alton Railroad Company, for which please credit net proceeds in account with myself to be held as a deposit upon your usual terms as to interest and withdrawal of the same and oblige.

T. B. BLACKSTONE.

90

EXHIBIT D.

(Copy.)

CHICAGO, *March 29th*, 1899.

United States Trust Company of New York, 45 Wall St., New York city.

GENTLEMEN: I hand you herewith for deposit and sale, under the agreement once concerning purchases of stock of the Chicago and Alton Railroad Company, lodged with you dated January 28, 1890, between John J. Mitchell and others, certificates Nos.

		B't forward:	9000			B't forward:	10944		
4531–	100	shares	A 581–	100	shares	B 1495–	40	shares
A 133–	100	"	583–	100	"	1504–	10	"
135–	100	"	678–	100	"	1565–	35	"
145–	100	"	679–	100	"	1635–	52	"
261–	100	"	680–	100	"	1646–	5	"
278–	100	"	681–	100	"	1647–	60	"
281–	100	"	682–	100	"	1652–	31	"
282–	100	"	684–	100	"	1661–	22	"
A 284			685–	100	"	1676–	20	"
to			686–	100	"	1700–	50	"
348–6500		"	687–	100	"	1717–	54	"
A 501–	100	"	688–	100	"	1729–	43	"
504–	100	"	691–	100	"	1731–	49	"
505–	100	"	692–	100	"	1733–	5	"
508–	100	"	693–	100	"	1738–	11	"
509–	100	"	694–	100	"	1769–	10	"
511–	100	"	698–	100	"	1771–	5	"
512–	100	"	B 370–	45	"	1772–	4	"
529–	100	"	395–	5	"			
530–	100	"	446–	50	"	Total:	11450	
532–	100	"	478–	10	"			
544–	100	"	1143–	50	"			
545–	100	"	1252–	60	"			
548–	100	"	1272–	20	"			
550–	100	"	1393–	4	"			
551–	100	"						
552–	100	"	Forward:	10944				
561–	100	"						
Forward:	9000							

of the preferred stock of the Chicago and Alton Railroad Company for which please credit net receipts in account with myself to be held as a deposit upon your usual terms as to interest and withdrawal of the same and oblige.

T. B. BLACKSTONE.

91 EXHIBIT E.

(Copy.)

NEW YORK, *March* 31*st*, 1899.

T. B. Blackstone, Esq., Chicago, Illinois.

DEAR SIR: I beg to acknowledge the receipt of your favor of the 29th instant, and by express certificates for 11,450 of preferred and 15,077 shares of Chicago and Alton common stock owned by yourself; also certificates for 49 shares of preferred and 16,700 common stock belonging to the estate of H. B. Norton, deceased, for which you are trustee, all of said shares being deposited with this company under the agreement between John J. Mitchell and E. H. Harriman and others for which stock payment has been made for your personal account of $4,881,522.21, and as trustee of the Norton estate of $299,527.06.

In compliance with your directions, these several amounts have been deposited with this company to your individual credit and as executor, as per advices herewith. For the present, and until further advised, the rate of interest to be allowed on each of these deposits will be two and one-half per cent. instead of two per cent. as heretofore mentioned.

The Chicago & Alton transfer agents think it desirable that you execute and return to us the accompanying powers of attorney, in order to save to you the expense of twenty-five cents on each separate stock certificate which would otherwise be required under the internal-revenue law.

Very truly yours, JOHN A. STEWART, *President.*

EXHIBIT F.

Timothy B. Blackstone in account with the United States Trust Company of New York.

DR.			CR.		
1899.			1899.		
June 24.	To cash	$5,000	M'ch 31.	By cash	$4,881,522 21
July 27.	" "	75,000	1900.		
Aug. 9.	" "	26,224 11	M'ch 31.	" int. U. S. T. Co. to M'ch 31, 1900	132,425 83
Nov. 6.	" "	5,000		" int. U. S. T. Co. to May 26, 1900 (credited Aug. 9, 1900)	22,497 79
" 18.	" "	50,000			
Dec. 4.	" "	5,000			
" 21.	" "	9,765			
1900.					
Jan'y 12.	" "	5,000			
" 26.	" "	1,000			
" 27.	" "	5,000			
Feb'y 23.	" "	1,000			
M'ch 3.	" "	5,000			
	" balance	4,843,456 72			
	Total	$5,036,445 83		Total	$5,036,445 83
			May 26.	By balance	$4,843,456 72

3324

93 *Affidavit Submitted by Executrix, Read on Behalf of Appellant.*

Surrogate's Court, New York County.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COUNTY OF NEW YORK, *ss:*

William J. Bryson, being duly sworn, deposes and says that he resides in the city of Chicago, Illinois, and was for twenty years prior to May, 1900, the private secretary of Timothy B. Blackstone, the decedent above named, that in that capacity deponent was well acquainted with the property of said decedent, and had charge of that property, under the decedent's direction, during his lifetime; that he has read the answering affidavit herein of Isabella F. Blackstone, individually and as executrix of the last will and testament of said Timothy B. Blackstone, deceased, verified the 17th day of December, 1900, and believes all the allegations of fact therein contained to be true; that the expenses of administration and debts, amounting to $155,706.81, which as shown in said affidavit were deducted from said estate as assessed for taxation under the Illinois inheritance tax law, included only a portion of the commissions of said executrix which at the rate of six per cent. of the decedent's personal estate had prior thereto been duly allowed her by
94 the probate court of Cook county, Illinois; that the balance of said commissions not so deducted amounted to upwards of $175,000; that all of said commissions, administration expenses and debts, aggregating more than $330,706.81, were paid by the executrix out of the deposit with the United States Trust Company of New York, mentioned in said affidavit; that the Federal legacy tax assessed against decedent's estate under the war-revenue act of 1898, and the $800,000 of general legacies given by the will of decedent, were also paid by said executrix out of the same fund; that said decedent prior to March 31, 1899, told deponent that he intended to leave with said trust company temporarily the proceeds of sale of decedent's Chicago and Alton stock until he could reinvest said proceeds permanently in satisfactory corporate stocks or bonds of the kind usually purchased by investors in the United States, and to keep these stocks and bonds in the city of Chicago; that during his lifetime he actually invested a portion of such proceeds in stock of the Illinois Central Railroad Company which he bought on the New York stock exchange, but was prevented by his increasing ill health from investing the remainder thereof; that decedent expressed to deponent several times the disappointment which decedent felt, that owing to such ill health, he was unable to complete the investment of said proceeds, and said to deponent that such inability was resulting in great pecuniary loss to him; that in the case of the proceeds of the Chicago and Alton stock belonging to the

trust estate held by decedent as trustee under the will of Henry B. Norton, a deceased citizen of Connecticut, decedent succeeded in completing such investment before August 10, 1899, by purchasing in the city of Chicago various corporate stock and bonds, and
95 that such stocks and bonds were never within the State of New York.

WM. J. BRYSON.

Sworn to before me this 9th day of January, 1901.
DANIEL MOYNAHAN,
Notary Public, Kings Co.

Cert. filed N. Y. Co.

Affidavit Submitted by Executrix, Read on Behalf of Appellant.

Surrogate's Court, New York County.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COUNTY OF NEW YORK, *ss:*

Albert Wick, being duly sworn, deposes and says that he is upwards of twenty-one years of age, and is a clerk in the office of Edward W. Sheldon, the attorney in this proceeding for Isabella F. Blackstone, individually and as executrix, etc., of Timothy B. Blackstone, deceased; that deponent has examined the records in the surrogate's court for the county of New York, in the estate of Frederic Bronson; that by the transfer tax appraiser's report filed in this court in the estate of said Frederic Bronson on the 2d day of
96 October, 1900, a balance to the credit of the decedent at the time of his death with the Bridgeport bank, of Bridgeport, Connecticut, amounting to $657.14, was appraised as subject to the transfer tax and final order fixing the tax upon said appraisal was thereafter duly entered; that said decedent Frederic Bronson was a resident of the county of New York at the time of his death; that no appeal has been taken from said final order, and that the time for such appeal has expired.

ALBERT WICK.

Sworn to before me this 9th day of January, 1901.
DANIEL MOYNAHAN,
Notary Public, Kings Co.

Cert. filed N. Y. Co.

97 *Order Fixing Tax, Read on Behalf of Respondent.*

At a surrogate's court, held in and for the county of New York, at the county court-house, in the county of New York, on the 20th day of February, 1901.

Present: The Honorable Abner C. Thomas, surrogate.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

Upon reading and filing the report of Charles B. Page, the appraiser herein, dated the 19th day of February, 1901, it is

Ordered, that the cash value at the date of decedent's death of the property, the transfer of which is liable to taxation in this proceeding, and the tax to which the same is liable, are as follows:

98 Name of beneficiary.	Cash value.	Tax.
Ellen B. Plant, niece	$25,000	$1,250.00
William L. Harrison, grand-nephew	30,000	1,500.00
Paul Harrison, grand-nephew	30,000	1,500.00
Gertrude Harrison, grandniece	20,000	1,000.00
George Blackstone, nephew	50,000	2,500.00
Adelaide Blackstone, niece	20,000	1,000.00
Emma Pond, niece	20,000	1,000.00
William N. Blackstone, nephew	250,000	12,500.00
Harriet B. Camp, niece	25,000	1,250.00
Frances Ella Huntington, niece	25,000	1,250.00
Lorenzo Blackstone, grand-nephew	25,000	1,250.00
Morton F. Plant, nephew	10,000	500.00
William J. Bryson, stranger	15,000	750.00
Susan E. Jones, stranger	5,000	250.00
James Blackstone Memorial Library Association of Branford, Connecticut	100,000	5,000.00
Art Institute of Chicago	25,000	1,250.00
Chicago orphan asylum	25,000	1,250.00
Home of the Friendless, Chicago	25,000	1,250.00
St. Lake's hospital, Chicago	25,000	1,250.00
Passavant Memorial hospital, Chicago	25,000	1,250.00
Chicago Relief and Aid Society, Chicago	25,000	1,250.00
Isabella F. Blackstone, widow	3,753,609.58	37,536.00

ABNER C. THOMAS, *Surrogate.*

99 *Notice of Assessment of Tax and Proof of Service Thereof, Read on Behalf of Respondent.*

Surrogate's Court, County of New York.

In the Matter of the Estate of TIMOTHY B. BLACKSTONE, Deceased.

You are hereby notified that I have, by order made the 20th day of February, 1901, assessed and fixed the cash value of such interest, estate, legacy or property as you are entitled to receive from or out of the estate left by said deceased, and the amount of the tax to which the same is liable under chapter 483 of the Laws of 1885 and the acts amendatory thereof and supplemental thereto, as follows:

100 To beneficiary.	Cash value of interest or estate thereof.	Tax assessed thereon.
Ellen B. Plant	$25,000.00	$1,250.00
William L. Harrison	30,000.00	1,500.00
Paul Harrison	30,000.00	1,500.00
Gertrude Harrison	20,000.00	1,000.00
George Blackstone	50,000.00	2,500.00
Adelaide Blackstone	20,000.00	1,000.00
Emma Pond	20,000.00	1,000.00
William N. Blackstone	250,000.00	12,500.00
Harriet B. Camp	25,000.00	1,250.00
Frances E. Huntington	25,000.00	1,250.00
Lorenzo Blackstone	25,000.00	1,250.00
Morton F. Plant	10,000.00	500.00
William J. Bryson	15,000.00	750.00
Susan E. Jones	5,000.00	250.00
James Blackstone Memorial Library Association of Branford, Conn	100,000.00	5,000.00
Art Institute of Chicago, Ill	25,000.00	1,250.00
Chicago orphan asylum	25,000.00	1,250.00
Home of the Friendless, Chicago	25,000.00	1,250.00
St. Luke's hospital, Chicago	25,000.00	1,250.00
Passavant Memorial hospital, Chicago	25,000.00	1,250.00
Chicago Relief & Aid Society, Chicago, Ill	25,000.00	1,250.00
Isabella F. Blackstone	3,753,609.58	37,536.09

ABNER C. THOMAS, *Surrogate.*

101 COUNTY OF NEW YORK, *ss:*

Alexander J. Shields, being duly sworn, says that he is a clerk in the office of the surrogate of the county of New York, and is of the age of 21 years *of age* and upward. That on the 23d day of February, 1901, he served notices, of each of which the within is a copy, upon the persons and bodies hereinafter named, by mailing one of such notices to each of such persons and bodies at the place of residence and address of such person or body stated below. That such notice was securely enclosed in a postpaid wrapper or envelope directed to such person or body at the aforesaid place of residence and address of such person or body, and such wrapper or envelope containing such notice was deposited by deponent on said 23d day of February, 1901, in the post-office in the city of New York.

James Blackstone Memorial Library Ass'n, Branford, Conn.
Chicago orphan asylum, Chicago, Ill.
Art Institute of Chicago, Chicago, Ill.
Chicago Relief & Aid Society, Chicago, Ill.
Passavant Memorial hospital, Chicago, Ill.
St. Luke's hospital, Chicago, Ill.
Home of the Friendless, Chicago, Ill.
Isabella F. Blackstone, 252 Michigan Ave., Chicago, Ill.

Gertrude Harrison, c/o Wm. Brown, Esq., Jacksonville, Ill.
Harriet B. Camp, c/o Wm. Brown, Esq., Jacksonville, Ill.
William N. Blackstone, c/o Wm. Brown, Esq., Jacksonville, Ill.
Adelaide Blackstone, c/o Wm. Brown, Esq., Jacksonville, Ill.
Emma Pond, c/o Wm. Brown, Esq., Jacksonville, Ill.
Lorenzo Blackstone, c/o Wm. Brown, Esq., Jacksonville, Ill.
102 Frances E. Huntington, c/o Wm. Brown, Esq., Jacksonville, Ill.
William J. Bryson, c/o Wm. Brown, Esq., Jacksonville, Ill.
Susan E. Jones, c/o Wm. Brown, Esq., Jacksonville, Ill.
Ellen B. Plant, c/o Wm. Brown, Esq., Jacksonville, Ill.
Morton F. Plant, c/o Wm. Brown, Esq., Jacksonville, Ill.
William L. Harrison, c/o Wm. Brown, Esq., Jacksonville, Ill.
George Blackstone, c/o Wm. Brown, Esq., Jacksonville, Ill.
Paul Harrison, c/o Wm. Brown, Esq., Jacksonville, Ill.
Hon. Erastus C. Knight, Albany, N. Y.
Hon. Bird S. Coler, 280 B'way, N. Y. city.

ALEX. J. SHIELDS.

Sworn to before me this 23d day of February, 1901.

JOHN KEENAN,
Assistant to the Surrogate, New York County.

103 *Notice of Appeal of Executrix, Read on Behalf of Appellant.*

Surrogate's Court, New York County.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

Notice of Appeal.

SIRS: Please take notice that Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, late of the city of Chicago, Illinois, deceased, hereby appeals to the surrogates of the county of New York, from each and every part of the appraisement, assessment and determination of tax herein, and from each and every part of the report of Charles B. Page, appraiser herein, filed in the office of the said surrogates on the 19th day of February, 1901, and of the order entered herein in said office on the 20th day of February, 1901, purporting to assess and fix a tax under article ten of chapter 908 of the Laws of 1896, of the State of New York, and the various acts amendatory thereof and supplemental thereto, upon the transfer of the property of the decedent above named.

The grounds upon which this appeal is taken are as follows:

First. That at the time of his death, Timothy B. Blackstone, the decedent above named, was not a resident of the
104 State of New York, and left no property in said State.

Second. That the will of said decedent by which the transfer attempted to be taxed in this proceeding was made, was duly proved before the probate court of Cook county in the State of Illinois,

where said decedent resided at the time of his death; that letters testamentary thereon were duly issued by said court to this appellant, and that no proceedings for the probate of said will or the administration of said decedent's estate have been taken in the State of New York.

Third. That the appellant herein and all the other legatees named in said order were at the time of said decedent's death and are residents and citizens of the United States, but non-residents of the State of New York.

Fourth. That if the debts due said decedent at the time of his death from the United States Trust Company of New York and the firm of Cuyler, Morgan & Company of the city of New York, which constitute the only property appraised herein, can be deemed for any purpose property then situated within the State of New York, that such property was only transitorily within said State.

Fifth. That a tax upon the transfer of and succession to all of the property of said decedent upon his death, including said debts so due him from said trust company and firm, has been duly assessed by the county court of Cook county in the State of Illinois, to which jurisdiction in that behalf belonged, and paid by this appellant to the treasurer of said Cook county.

Sixth. That this court has no jurisdiction in the premises, and that this proceeding and said appraisement, assessment, determination report and order are void.

105 Seventh. That the transfer tax law of the State of New York was not intended to and did not in fact include in its operation any debts owing to the decedent at the time of his death by said trust company or firm.

Eighth. That if said law had such intention or effect, said law was to that extent, and each and every part of said appraisement, assessment, determination, report and order was unconstitutional and void for the following reasons:

1. That they impair the obligation of the contracts made by said decedent with said trust company and firm, respectively, and so violate section 10 of article I of the Constitution of the United States.

2. That they deny full faith and credit in the State of New York to the public acts, records and judicial proceedings of the State of Illinois, and so violate section 1 of article IV of said Constitution.

3. That they deprive citizens of Illinois and Connecticut of certain privileges and immunities of citizens of the State of New York and so violate section 2 of article IV of said Constitution.

4. That they abridge the privileges and immunities of this appellant and the other legatees under the will of said decedent, and would deprive this appellant and said other legatees of their property without due process of law, and deny to them the equal protection of the law and so violate article XIV of amendment to said Constitution.

5. That they would deprive this appellant and said other legatees of their property without due process of law, and so violate section 6 of article I of the constitution of the State of New York.

106 Ninth. That said report and order erroneously fix the value of the property of said decedent passing by his will at $4,553,609.58, without deducting the sum of $64,625.56 which was paid by this appellant to the county treasurer of Cook county, Illinois, on the 26th day of November, 1900, as the inheritance tax levied and assessed upon the right of succession of the legatees under said will to all the property of the decedent, including the amounts owed him at the time of his death by said trust company and firm; and also without deducting the sum of $21,095 paid by this appellant as the Federal legacy tax assessed upon the $800,000 of general legacies given by said will.

Dated February 25th, 1901.

Yours, &c., EDWARD W. SHELDON,
Attorney for Isabella F. Blackstone, Individually and as Executrix, &c., of Timothy B. Blackstone, Deceased, Appellant.

To J. Fairfax McLaughlin, Esq., clerk of the surrogate's court, county of New York; Julius Offenbach, Esq., attorney for the comptroller of the city of New York.

107 *Order Reversing Order Assessing Tax, Read on Behalf of Respondent (Order Appealed from).*

At a surrogate's court held in and for the county of New York, at the county court-house in the county of New York, on the 26th day of July, 1901.

Present: The Honorable Frank T. Fitzgerald, surrogate.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

The comptroller of the city of New York having heretofore filed his petition herein, dated November 10, 1900, for the appointment of some competent person to appraise the property passing by the will of Timothy B. Blackstone, the decedent above named, or such part thereof as might be subject to taxation under the laws of the State of New York in relation to taxable transfers of property, and an order having on November 12, 1900, been entered, directing Charles B. Page to fix the fair market value at the time of the transfer of the property which was of the above-named decedent and which was subject to the payment of any tax imposed by article X of chapter 908 of the Laws of 1896, and the acts amendatory thereof and supplemental thereto; and the said appraiser having on

108 February 19, 1901, filed his report herein; and an order having thereupon been entered herein February 20, 1901, declaring that the cash value of the property passing by the will of said decedent to the legatees thereunder was as follows, viz: Ellen B. Plant, niece, $25,000; William L. Harrison, grand-nephew, $30,000; Paul Harrison, grand-nephew, $30,000; Gertrude Harrison, grand-niece, $20,000; George Blackstone, nephew, $50,000; Adelaide Black-

stone, niece, $20,000; Emma Pond, niece, $20,000; William N. Blackstone, nephew, $250,000; Harriet B. Camp, niece, $25,000; Frances Ella Huntington, niece, $25,000; Lorenzo Blackstone, grandnephew, $25,000; Morton F. Plant, nephew, $10,000; William J. Bryson, stranger, $15,000; Susan E. Jones, stranger, $5,000; James Blackstone Memorial Library Association of Branford, Connecticut, $100,000; Art Institute of Chicago, $25,000; Chicago orphan asylum, $25,000; Home of the Friendless, Chicago, $25,000; St. Luke's hospital, Chicago, $25,000; Passavant Memorial hospital, Chicago, $25,000; Chicago Relief and Aid Society, Chicago, $25,000, and Isabella F. Blackstone, widow, $3,753,609.58, and that the tax to which said legacies were liable on such transfer was at the rate of five per cent. of such value upon the legacies to said collateral relatives and strangers, and one per cent. upon the legacy to said widow; and said Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, having appealed to the surrogates of the county of New York from said order of February 20, 1901; now upon reading and filing the petition for the appointment of said appraiser, the oath of said appraiser, the notice of appraisal, the notice of appearance and protest of said Isabella F. Blackstone, the report of said appraiser, the testimony taken before said appraiser, the answer of said Isabella F. Blackstone, individually and as executrix of the last will and testament of Tim-
109 othy B. Blackstone, deceased, to said petition, with the exhibits annexed to said answer, the affidavit of Henry L. Thornell, verified January 10th, 1901, the affidavits of William J. Bryson and Albert Wick, verified January 9th, 1901, the notice of entry of order assessing tax, and the order assessing tax, and the notice of appeal therefrom, and after hearing Edward W. Sheldon, Esq., of counsel for Isabella F. Blackstone, individually and as executrix of Timothy B. Blackstone, deceased, and Julius Offenbach, Esq., of counsel for the comptroller of the city of New York, respondent; now on motion of Edward W. Sheldon, attorney for Isabella F. Blackstone, individually and as executrix, &c., of Timothy B. Blackstone, deceased, it is

Ordered that the order entered herein February 20, 1901, be and the same hereby is reversed, and said transfers are, and each of them is hereby, declared to be exempt from any transfer tax under the laws of the State of New York.

FRANK T. FITZGERALD, *Surrogate.*

110 *Notice of Appeal, Read on Behalf of Respondent.*

Surrogate's Court, County of New York.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COMPTROLLER OF THE CITY OF NEW YORK, Appellant,

ISABELLA F. BLACKSTONE, Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased, Respondent.

Please take notice that the comptroller of the city of New York hereby appeals to the appellate division of the supreme court of the State of New York, first department, from the order entered herein in the office of the clerk of this court, on the 26th day of July, 1901, and from each and every part thereof.

Dated New York, August 12th, 1901.

Yours, &c.,

JULIUS OFFENBACH,
Attorney for Comptroller of the City of New York.

Office and post-office address, 27–29 Pine street, borough of Manhattan, city of New York.

111 To James Fairfax McLaughlin, Esq., clerk of surrogate's court, county of New York, and Edward W. Sheldon, Esq., attorney for Isabella F. Blackstone, individually and as executrix, &c.

STATE OF NEW YORK, } ss.:
County of New York, }

I, J. Fairfax McLaughlin, clerk of the surrogate's court of said county, do hereby certify that I have compared the foregoing copy of the notice of appeal, papers, order and decree in the matter of the appraisal under the act in relation to taxable transfers of property of the property of Timothy B. Blackstone, deceased, with the originals thereof in this office, and have found the same are true and correct copies of such originals, and the same with the originals thereof are all the papers upon which said order and decree are made.

In testimony whereof, I have hereunto set my hand and affixed the seal of the surrogate's court of the county of New York, this 24th day of September, in the year of our Lord, one thousand nine hundred and one.

[SEAL.] J. FAIRFAX McLAUGHLIN,
Clerk of the Surrogate's Court.

Surrogate's Court.

By FITZGERALD, S.:

Estate of Timothy B. Blackstone.—The decedent a non-resident, died in May, 1900, leaving nearly $5,000,000 with the United States Trust Company and over $10,000 due him on an account with a firm of bankers in this city. The deposit with the trust company arose under the following circumstances: The decedent had been for many years the president and a large stockholder in an Illinois railroad company. In March, 1899, an agreement was entered into for the purchase of this stock by a syndicate which sought to obtain a controlling interest in the railroad. In pursuance of this agreement the decedent joined with other stockholders in a sale of his shares. The trust company was made the depositary of the stock to be purchased, and was authorized upon receiving the certificates, duly indorsed, to pay the agreed price therefore. Decedent communicated with the trust company, inquiring whether, in case he sold, he might leave the proceeds with it; that he was at a loss to know how safely to invest these proceeds, and might wish to deposit a considerable sum for several months. The trust company replied that it would receive such proceeds, hold them subject to his order and allow interests thereon at a specified rate, but if he would require more than $100,000 he should not draw upon the trust company except upon two days' notice. These terms were acceded to, and on the 29th day of March, 1899, his stock certificates were delivered to the trust company, who made a book transfer of the purchase price from its account with the purchasing syndicate to a new account in decedent's name, entitled "Deposits in trust." No certificate of deposit nor pass book was issued, and the only evidence of the deposit was this book entry and the
113 correspondence stated. Up to the time of his death the decedent had withdrawn about $200,000. The appellant alleges that it was decedent's fixed intention to leave this balance with the trust company only temporar-y and pending its investment; that owing to his ill health, which was continuous and progressive from the date of the deposit until his death, he was unable to carry out his intention. On several occasions he expressed disappointment at his failure and complained that he was suffering great pecuniary loss in consequence. In the Estate of Leopold (Law Journal, June 28, 1901) I had occasion to pass upon the taxability of a deposit made under somewhat similar circumstances, and I there held that where a decedent had deposited three days prior to his death a sum of money to the credit of a syndicate formed for the purchase of stock, which purchase was completed within a month succeeding his death, the property was only transitorily here and was not liable to taxation under the transfer tax law. In the present case while the property remained here for more than a year, the proof shows that the money realized upon the sale of the securities was of great

magnitude; that the reason why it was not removed from the State sooner was because of the difficulties experienced in making new investments and the ill health of the owner. I can see no difference in principal between the two cases, and upon the authority of that case and of the cases cited in the memorandum handed down in that case I sustain the appeal.

114 *Order of Reversal, Read on Behalf of Respondent.*

At a stated term of the appellate division of the supreme court, first department, held at the appellate division court-house, in the county of New York, on the 7th day of February, 1902.

Present: Hon. Charles H. Van Brunt, P. J.; Hon. Morgan J. O'Brien, Hon. George L. Ingraham, Hon. Edward W. Hatch, JJ.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COMPTROLLER OF THE CITY OF NEW YORK, Appellant;

ISABELLA F. BLACKSTONE, Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased, Respondent.

An appeal having been duly taken to the appellate division of the supreme court, first department, in the name of the comp-
115 troller of the city of New York, from the order of the surrogate's court of the county of New York entered herein and filed in the office of the clerk of the said surrogate's court on the 26th day of July, 1901, which reversed the order of said surrogate's court entered in the office of the clerk thereof on the 20th day of February, 1901, on the report of Charles B. Page, appraiser herein, and declared transfers of the property of the decedent above named exempt from any transfer tax under the laws of the State of New York, and said appeal duly coming on to be heard,

And after hearing Thomas Penney, of counsel for the comptroller of the city of New York, in support of said appeal, and Edward W. Sheldon, of counsel for respondent in opposition thereto, and due deliberation having been had,

On motion of Julius Offenbach, attorney for appellant, it is

Ordered, that the order of the surrogate's court of the county of New York appealed from, be, and the same hereby is reversed, with ten dollars costs and disbursements to the appellant, and the order of said surrogate's court entered in the office of the clerk thereof on the 20th day of February, 1901, be, and the same hereby is affirmed.

116 Appellate Division of the Supreme Court, State of New York, First Judicial Department, Clerk's Office, New York County.

In the Matter of the Appraisal, &c., of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COMPTROLLER OF THE CITY OF NEW YORK, App'l't;

ISABELLA F. BLACKSTONE, Indiv'y & as Executrix, &c., of Timothy B. Blackstone, Dec'd, Resp't.

I, Alfred Wagstaff, clerk of the appellate division of the supreme court, in the first judicial department, do hereby certify that the foregoing is a copy of the order made by said court upon the appeal in the above-entitled action or proceeding, and entered in my office on the first day of March 1902, and that the original case or papers upon which said appeal was heard are hereunto annexed.

In witness whereof, I have hereunto set my hand and affixed the seal of said court at the city of New York this 4th day of March, 1902.

[L. S.] ALFRED WAGSTAFF, *Clerk.*

117 *Order of Surrogate's Court on Remittitur, Read on Behalf of Respondent.*

At a term of the surrogate's court of the county of New York, held in the county court-house in the borough of Manhattan, city of New York, on the 12th day of March, 1902.

Present: Hon. Abner C. Thomas, surrogate.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COMPTROLLER OF THE CITY OF NEW YORK, Appellant;

ISABELLA F. BLACKSTONE, Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased, Respondent.

This proceeding having been brought on upon a remittitur herein sent down from the appellate division of the supreme court of the State of New York, first department, and filed with the clerk of this court on the 6th day of March, 1902, by which remittitur it appears
118 that an appeal was taken by Bird S. Coler, comptroller of the city of New York, to the appellate division of the supreme court, first department, from the order of the surrogate's court *in made* this proceeding and entered in the office of the clerk of the county of New York on the 26th day of July, 1901; that on such appeal the said order of the surrogate's court appealed from was reversed with ten dollars costs and disbursements, and that the record and proceedings had been directed by said appellate division of the supreme court of the State of New York, first department, to be re-

mitted to this court for its further proceedings thereon according to law; and the appellant's costs having been duly taxed by consent at the sum of eighty-eight and $\frac{15}{100}$ dollars; now therefore,

On motion of Julius Offenbach, attorney for Bird S. Coler, comptroller of the city of New York, it is

Ordered, that the said order of the appellate division of the supreme court of the State of New York first department, be, and the same hereby is, made the order of this court; that the order of surrogate's court of the county of New York appealed from be, and the same hereby is, reversed, with eighty-eight and $\frac{15}{100}$ dollars costs to the appellant, to be paid by the respondent; and that the order of this court herein entered in the office of the clerk hereof on the 20th day of February, 1901, be and the same hereby is, affirmed.

ABNER C. THOMAS, *Surrogate.*

119 *Notice of Appeal to Court of Appeals, Read on Behalf of Appellant.*

Surrogate's Court, New York County.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

Please take notice that Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, late of the city of Chicago, Illinois, deceased, hereby appeals to the court of appeals of the State of New York from the order herein of the appellate division of the supreme court of said State for the first judicial department, entered in the office of the clerk of said appellate division on the 1st day of March, 1902, which, upon the appeal of the comptroller of the city of New York, reversed an order herein of the surrogate's court for the county of New York, entered in the office of the clerk of said surrogate's court on the 26th day of July, 1901, and affirmed an order herein of the said surrogate's court, entered in the office of the clerk of said court on the 20th day of February, 1901, and from each and every part of said order of March 1st, 1902, and that on said appeal the appellant intends to bring up for review the order herein of the said appellate division, entered in the office of the clerk of said appellate division on the 13th day of December, denying the motion

120 of said Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, to dismiss the appeal herein taken by the comptroller of the city of New York from said surrogate's court order of July 26th, 1901, and also to bring up for review the order herein of said appellate division entered in the office of the clerk of said appellate division on the 29th day of January, 1902, denying the motion of said Isabella F. Blackstone individually and as executrix as aforesaid

for leave to appeal to the court of appeals from said order of December 13th, 1901.

Dated March 26th, 1902.

Yours, &c.,

EDWARD W. SHELDON,
Attorney for Appellant, 45 *Wall Street*,
Manhattan, New York.

To Thomas L. Hamilton, Esq., clerk of the county of New York. J. Fairfax McLaughlin, Esq., clerk of the surrogate's court, New York county. Julius Offenbach, Esq., attorney for the comptroller of the city of New York.

To the comptroller of the State of New York.

121 STATE OF NEW YORK, } ss:
County of New York, }

I, J. Fairfax McLaughlin, clerk of the surrogate's court of said county, do hereby certify that I have compared the foregoing copies of the notice of appeal, papers and orders in the matter of the appraisal under the act in relation to taxable transfers of property of the property of Timothy B. Blackstone deceased, and of the remititur of the appellate division therein with the originals thereof in this office, and have found the same are true and correct copies of such originals and the same with the originals thereof are all the papers upon which said order and decree was made.

In testimony whereof, I have hereunto set my hand and [SEAL.] affixed the seal of the surrogate's court of the county of New York, this 22nd day of April in the year of our Lord one thousand nine hundred and two.

(S'g'd) J. FAIRFAX McLAUGHLIN,
Clerk of the Surrogate's Court.

122 *Opinion of Appellate Division, Read on Behalf of Respondent.*

Supreme Court, Appellate Division, First Department, January, 1902.

Charles H. Van Brunt, P. J.; Morgan J. O'Brien, George L. Ingraham, Edward W. Hatch, JJ.

In the Matter of the Appraisal of the Property, under the Act of Taxable Transfers of Property, — of TIMOTHY B. BLACKSTONE, Deceased. No. 3792.

THE COMPTROLLER OF THE CITY OF NEW YORK, Appellant;

ISABELLA F. BLACKSTONE, Individually and as Executrix, &c., Respondent.

Appeal from an order of the surrogate of New York county, declaring the transfer of certain property of the decedent exempt from taxation.

Mr. Thomas Penny, for appellant.
Mr. Edward W. Sheldon, for respondent.

HATCH, *J.:*

123 Timothy B. Blackstone, whose estate is sought to be taxed under the transfer tax law in this proceeding, was a resident of the city of Chicago in the State of Illinois, and died in said city on the 26th day of May, 1900, leaving a last will and testament. For thirty-four years prior to March, 1899, he had been the president of the Chicago and Alton Railroad Company, a corporation formed under the laws of the State of Illinois. On the 29th day of March, 1899, the decedent, having concluded to sell his holdings of stock in said corporation, forwarded the same to the United States Trust Company, a corporation organized under the laws of the State of New York; 26,537 shares of said stock were sold, pursuant to an agreement entered into before the delivery of the stock to the trust company, which sale produced a large sum of money; $4,881,522.21 of the proceeds of such sale was by arrangement with the trust company placed in its hands and credited to the deceased; the agreement with the trust company in reference thereto being, that the trust company should hold the same subject to the order of the decedent, pay interest thereon at the rate of two and one-half per cent. per annum, and repay the principal upon demand, provided, however, that notice of not less than two days should be given to said trust company before any portion of such money exceeding in amount the sum of $100,000 should be demanded. On the date of the death of the decedent there was due to him from the trust company of such moneys, principal and interest, $4,843,456.72. There was also due to the decedent from Cuyler, Morgan & Co., bankers of the city of New York, $10,692.24,

being the balance of a deposit account kept with said firm. The will of the deceased was duly admitted to probate in Cook county, in the State of Illinois. By its terms he made various specific bequests, in the sum of $800,000, to collateral relatives and to persons not related to the testator, and also to certain benevolent, charitable and educational institutions located without the State of New York. The residue of his estate he gave to his widow Isabella F. Blackstone.

On the 10th day of November, 1900, an application was
124 duly made by the comptroller of the city of New York, upon a petition duly verified, setting forth the jurisdictional facts as required by the transfer tax law, to the surrogate of the county of New York for the designation of an appraiser to fix the market value of the property of the deceased within this jurisdiction which was subject to the payment of the tax under the transfer tax law of this State. The surrogate acted thereon and appointed an appraiser, as required by the act, and such proceedings were thereafter had as resulted in a determination by the appraiser that the two sums of money deposited with the United States Trust Company and with Cuyler, Morgan & Co., amounting in the aggregate to $4,553,609.58, were subject to the payment of the tax as prescribed by the act. From the determination of the appraiser an appeal was taken by the executor of the estate to the surrogate, who reversed the determination of the appraiser, holding that the said sums of money were not subject to any transfer tax under the laws of the State of New York, but were exempt therefrom. An appeal from the order of the surrogate brings the matter into this court.

Every question presented by this appeal has been settled by decisive authority. The facts as presented in Matter of Houdayer (150 N. Y., 37), involve, in principle, every question presented by the facts in this case, and arose under substantially the same circumstances. The deposits were held to be money for all practical purposes, owned by the decedent at the time of his death, and as such taxable under the transfer tax act of the State. Other authorities support this view (Matter of the Estate of Romaine, 127 N. Y., 80; Matter of Whiting, 150 N. Y., 27; Matter of Bronson, 150 N. Y., 1).

It is urged that the comptroller is without authority to prosecute this appeal. Such question was settled adversely to the contention of the respondent upon the motion to dismiss the appeal in this case, where it was held that as the comptroller of the city of New York was authorized to institute the proceeding, he had authority
125 to prosecute the appeal from the decision of the surrogate, although the powers and duties in respect thereto had devolved upon the comptroller of the State. Such condition would authorize a substitution of the comptroller of the State, but until such substitution is had the proceeding was properly prosecuted by the officer instituting it.

These are the only questions presented upon this appeal. It follows, therefore, that the order of the surrogate should be reversed

and the report of the appraiser confirmed, with $10 costs and disbursements to the appellant.

All concur.

126 Court of Appeals.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

ISABELLA F. BLACKSTONE, Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased, Appellant;

COMPTROLLER OF THE CITY OF NEW YORK, Respondent.

Papers on Motions to Dismiss Appeal and for Leave to Appeal to the Court of Appeals.

Edward W. Sheldon, attorney for appellant, No. 45 Wall street, Manhattan, New York.

Julius Offenbach, Esq., attorney for respondent.

127 *Notice of Motion to Dismiss Appeal, Read on Behalf of Appellant.*

Appellate Division, Supreme Court, First Department.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COMPTROLLER OF THE CITY OF NEW YORK, Appellant.

ISABELLA F. BLACKSTONE, Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased, Respondent.

SIR: Please take notice that upon the printed papers on appeal herein, filed in the office of the clerk of this court, copies of which are hereto annexed, and on the annexed affidavit of Edward W. Sheldon, verified November 7, 1901. I shall move the court, at a term thereof, to be held in its court-house on Madison square,

128 New York, on Friday, the 15th day of November, 1901, at 1 o'clock in the afternoon, or as soon thereafter as counsel can be heard, to dismiss the appeal taken herein by the comptroller of the city of New York, from the order of the surrogate's court for the county of New York, entered in the above-entitled proceeding on the 26th day of July, 1901, upon the ground that said comptroller of the city of New York is not a party interested in said order and is not aggrieved thereby.

Dated November 7, 1901.

Yours, etc., EDWARD W. SHELDON,

Attorney for Isabella F. Blackstone, Individually and as Executrix, etc., Respondent, 45 Wall Street, Manhattan, New York.

To Julius Offenbach, Esq., attorney for the comptroller of the city of New York, appellant.

129 *Affidavit of Edward W. Sheldon on Motion to Dismiss Appeal, Read on Behalf of Appellant.*

Appellate Division, Supreme Court, First Department.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COMPTROLLER OF THE CITY OF NEW YORK, Appellant;

ISABELLA F. BLACKSTONE, Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased, Respondent.

COUNTY OF NEW YORK, *ss:*

Edward W. Sheldon, being duly sworn, says that he is the attorney in this proceeding for the respondent Isabella F. Blackstone, individually and as executrix, etc., of Timothy B. Blackstone, deceased, and that, as deponent is informed and believes, the appellant The Comptroller of the City of New York is not a party
130 interested in the order appealed from herein which was entered in the above-entitled proceeding in the surrogate's court for New York county on the 26th day of July, 1901, and is not aggrieved thereby. No appeal from said order has been taken by any other person or party.

EDWARD W. SHELDON.

Sworn to before me this 7th day of November, 1901.

DANIEL MOYNAHAN,
Notary Public, Kings Co.

Cert. filed N. Y. Co.

131 *Affidavit of Theodore P. Gilman in Opposition to Motion to Dismiss Appeal, Read on Behalf of Respondent.*

Appellate Division of the Supreme Court, First Department.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COMPTROLLER OF THE CITY OF NEW YORK, Appellant;

ISABELLA F. BLACKSTONE, Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased, Respondent.

COUNTY OF ALBANY, *ss:*

Theodore P. Gilman, being duly sworn, says that he is the deputy comptroller of the State of New York.

That in the month of October, 1900, deponent was the comptroller

of said State, and that on October 10, 1900, deponent as such comptroller designated Julius Offenbach as attorney for the comptroller of the city of New York to institute and conduct on behalf of
132 the People of the State of New York, but in the name of said city comptroller proceedings to appraise, fix and assess the transfer tax due upon the transfer of the property of the above-named decedent, situated in this State at the time of his death. That said proceedings and the appeal now pending have ever since been and now are being conducted on behalf of the People of the State of New York, in the name of said official and by said attorney with the assent and by the direction of the comptroller of the State of New York.

That within the past week deponent has caused a careful search to be made in the office of said State comptroller, and as the result thereof, states to the best of his knowledge and belief that no notice of appeal has ever been served upon the State comptroller, from the order of the New York surrogate's court herein, entered February 20th, 1901, fixing the value and assessing the tax upon the transfer of said property of the said decedent.

THEO. P. GILMAN.

Sworn to before me this 4th day of December, 1901.

WILLIS E. MERRIMAN,
Notary Public.

133 *Affidavit of Julius Offenbach in Opposition to Motion to Dismiss Appeal, Read on Behalf of Respondent.*

Appellate Division of the Supreme Court, First Department.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

COMPTROLLER OF THE CITY OF NEW YORK, Appellant;

ISABELLA F. BLACKSTONE, Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased, Respondent.

COUNTY OF NEW YORK, *ss:*

Julius Offenbach, being duly sworn, says that he is an attorney-at-law and the attorney for the comptroller of the city of New York herein, having been designated to act as such on the 10th day of October, 1900, by the comptroller of the State of New York. That deponent duly instituted these proceedings and appeared for
134 said comptroller of the city of New York before the appraiser in the above-entitled matter, pursuant to notice served upon deponent, and was, on the 19th day of December, 1900, served with notice of appearance on behalf of Isabella F. Blackstone, addressed to deponent as attorney for said city comptroller, together with affidavits filed on behalf of said executrix with said appraiser.

Deponent had frequent conferences with the attorney for said executrix from said date, in relation to said appraisal, and on the 25th day of February, 1901, deponent received a notice of appeal by said executrix, addressed to deponent as attorney for said comptroller, and admitted service thereof on behalf of said comptroller at the request of the attorney for said executrix.

That the said appeal, after several adjournments, finally came on for argument before the surrogate's court of New York county on the 26th day of March, 1901, and that deponent appeared and argued said appeal as attorney and counsel for said city comptroller.

On the 24th day of July, 1901, deponent received from the attorney for said executrix a proposed order and notice of settlement thereof, and on the 30th day of July, 1901, a copy of said order and notice and entry thereof, said papers being addressed to deponent as attorney for said city comptroller, said order appears at page 107 of the printed papers on appeal herein.

That on the 13th day of August, 1901, deponent as said attorney, as aforesaid, duly filed a notice of appeal from said order with the clerk of the surrogate's court of New York county and served same on the attorney for said executrix, who admitted service thereof, and has ever since retained same without objection.

On the 28th day of August, 1901, deponent, as such attorney as aforesaid, requested and obtained from the attorney for said
135 executrix, an extension of time to file and serve the printed papers on appeal herein, and on the 17th day of September, 1901, obtained a further and similar extension.

That on the 25th day of September, 1901, deponent caused three copies of the printed papers on appeal herein to be served on said attorney for the executrix, who duly admitted service thereof, and has ever since retained same without objection.

That on the 4th day of October, 1901, deponent received notice of argument of said appeal served on behalf of said executrix and addressed to deponent, as attorney for said city comptroller, and on the 9th day of October, 1901, deponent served notice of argument of said appeal upon the attorney for said executrix, who admitted service thereof, and has ever since retained same without objection.

That said notice of argument and all papers hereinbefore referred to as having been served by deponent, on the attorney for said executrix, were signed and endorsed by deponent in terms as attorney for the comptroller of the city of New York, and that deponent has taken the usual steps to bring said appeal on for argument before the appellate division of the supreme court, first department, on behalf of said city comptroller.

That the foregoing acts of deponent were done by him under his original retainer as aforesaid, by the comptroller of the State of New York, on behalf of the comptroller of the city of New York, which retainer has never been revoked, but remains in full force and effect. That no other person or officer has ever appeared or been cited or taken part in this proceeding on behalf of the State, except the comptroller of the city of New York and deponent as his attorney, as aforesaid.

That no objection was at any time interposed by or on behalf of said executrix to the appearance of the comptroller of the city of New York in this proceeding, until the service of notice of motion to dismiss this appeal on the 7th of November, 1901, after the
136 argument of said appeal had been adjourned from October 15th to November 8th, 1901, by stipulation signed by said attorney for said executrix, and requested and signed by deponent as attorney for said city comptroller as aforesaid.

JULIUS OFFENBACH.

Sworn to before me this 14th day of November, 1901.

THEODORE LONG,
Commissioner of Deeds, N. Y. City.

137 *Order Denying Motion to Dismiss Appeal, Read on Behalf of Respondent.*

At a term of the appellate division of the supreme court, first department, held at the appellate division court-house, in the county of New York, on the 13th day of December, 1901.

Present: Hon. Charles H. Van Brunt, P. J., Hon. Edward Patterson, Hon. Morgan J. O'Brien, Hon. Chester B. McLaughlin, Hon. Frank C. Laughlin, JJ.

In the Matter of the Appraisal, under an Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

ISABELLA F. BLACKSTONE, Individually and as Executrix, &c., Respondent;

BIRD S. COLER, Comptroller of the City of New York, Appellant.

The respondent above named having moved to dismiss the appeal of the comptroller of the city of New York from the final order of the surrogate's court of the county of New York, entered herein on the 26th day of July, 1901, upon the ground that said comp-
138 troller is not a party interested in said order and is not aggrieved thereby, and said motion having duly come on to be heard,

Now, on reading and filing the notice of said motion, dated November 7, 1901, and proof of service thereof, the affidavit of Edward W. Sheldon, verified the said day, the affidavits of Theodore P. Gilman, verified December 4th, 1901, and of Julius Offenbach, verified November 14th, 1901, and the printed papers on appeal herein, and

After hearing Edward W. Sheldon, Esq., of counsel for the respondent, in support of said motion, and Julius Offenbach, Esq., of counsel for the appellant, in opposition thereto, and due deliberation having been had, it is,

On motion of Julius Offenbach, attorney for the comptroller of the city of New York,

Ordered, that said motion be, and the same hereby is, denied, with ten dollars costs to the appellant.

Ent.

C. H. V. B.

139 *Notice of Motion for Leave to Appeal to the Court of Appeals, Read on Behalf of Appellant.*

Supreme Court, Appellate Division, First Department.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

THE COMPTROLLER OF THE CITY OF NEW YORK, Appellant;

ISABELLA F. BLACKSTONE, Individually and as Executrix, &c., of Timothy B. Blackstone, Deceased, Respondent.

SIR: Please take notice that, upon the printed papers on appeal herein, filed in the office of the clerk of this court, upon the notice of motion made by Isabella F. Blackstone, individually and as executrix, &c., respondent herein, for a dismissal of the above-entitled appeal, upon the affidavits filed upon said motion, upon the order of this court filed herein on the 18th day of December, 1901, denying said motion, with costs, and upon the annexed affidavit of Edward W. Sheldon, verified January 2d, 1902, I shall move the court at a term thereof to be held in its court-house on Madison square, New York, on Friday, the 10th day of January, 1902, at one o'clock in the afternoon, or as soon thereafter as counsel can be

140 heard, that the said Isabella F. Blackstone, individually, and as executrix, &c., of Timothy B. Blackstone, deceased, have leave to appeal to the court of appeals of the State of New York from said order of the appellate division of December 18, 1901, and that said appellate division certify that a question of law has arisen as to whether the comptroller of the city of New York is entitled to appeal to said appellate division from the order of the surrogate's court for New York county, entered July 26, 1901, and that in the opinion of said appellate division such question of law ought to be reviewed by the court of appeals.

Dated January 2, 1901.

Yours, &c.,

EDWARD W. SHELDON,
Attorney for Isabella F. Blackstone, Individually and as Executrix, &c.

To Julius Offenbach, Esq., attorney for the comptroller of the city of New York.

141 *Affidavit of Edward W. Sheldon on Motion for Leave to Appeal to the Court of Appeals, Read on Behalf of Appellant.*

Supreme Court, Appellate Division, First Department.

In the Matter of the Appraisal, under the act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

THE COMPTROLLER OF THE CITY OF NEW YORK, Appellant;

ISABELLA F. BLACKSTONE, Individually and as Executrix, &c., of Timothy B. Blackstone, Deceased, Respondent.

COUNTY OF NEW YORK, *ss.:*

Edward W. Sheldon, being duly sworn, says that he is the attorney in this proceeding for the respondent Isabella F. Blackstone, individually and as executrix, &c., of Timothy B. Blackstone, deceased; that this proceeding is an appeal taken by the comptroller of the city of New York, August 13, 1901, and perfected September 25, 1901, from an order of the surrogate's court for the county of New York, entered July 26, 1901, which declared the property of Timothy B. Blackstone, a resident of the State of Illinois, exempt from a

142 transfer tax under the laws of the State of New York; that on November 7, 1901, a motion was made on behalf of the respondent to dismiss said appeal on the ground that said comptroller was not a party interested in said order, and was not aggrieved thereby; that on the application of said comptroller the argument of said motion was adjourned from November 15th to December 6, 1901; that it was duly argued and submitted to this court on December 6, 1901; that on December 13, 1901, the court handed down a decision denying said motion, and that on December 18, 1901, an order was duly entered by this court in accordance with such decision, and denying respondent's motion to dismiss the appeal with $10 costs; that the appeal from said surrogate's court order of July 26, 1901, is now set down for argument in this court January 10, 1902; that the respondent desires to appeal from said order of December 18, 1901, to the court of appeals of the State of New York, and further desires that this court will certify to said court of appeals for determination the question as to whether the comptroller of the city of New York is entitled, notwithstanding the passage of chapter 173 of the laws of 1901, to appeal to this court from said order of the surrogate's court entered July 26, 1901.

That deponent believes that the question of law involved in said motion to dismiss is important; that its determination will affect other similar proceedings, and is of public interest, and that, in order to protect fully the interests of the respondent herein, it is necessary that such question be reviewed by the court of appeals.

EDWARD W. SHELDON.

Sworn to before me this 2d day of January, 1902.
DANIEL MOYNAHAN,
Notary Public, Kings Co.

Cert. filed N. Y. Co.

143 *Order Denying Motion for Leave to Appeal to the Court of Appeals, Read on Behalf of Respondent.*

At a stated term of the appellate division of the supreme court of the State of New York, first department, held at the court-house, in the county of New York, on the 24th day of January, 1902.

Present: Hon. Charles H. Van Brunt, presiding justice. Hon. Edward Patterson, Hon. Morgan J. O'Brien, Hon. Frank C. Laughlin, JJ.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

THE COMPTROLLER OF THE CITY OF NEW YORK, Appellant;

ISABELLA F. BLACKSTONE, Individually and as Executrix, &c., of Timothy B. Blackstone, Deceased, Respondent.

A motion having been made herein by the respondent for leave to appeal to the court of appeals of the State of New York from the order entered herein on the 18th day of December, 1901, by the appellate division of the supreme court of the State of New
144 York, first department, denying the respondent's motion to dismiss the appeal taken by the appellant herein, and that said appellate division certify that a question of law has arisen as to whether the comptroller of the city of New York is entitled to appeal to said appellate division from the order of the surrogate's court for New York county, entered July 26th, 1901, and that, in the opinion of said appellate division, such question of law ought to be reviewed by the court of appeals; and said motion duly coming on to be heard;

Now, on reading the printed papers on appeal herein, filed in the office of the clerk of this court, the affidavit of Edward W. Sheldon verified the 2d day of January, 1902, and the notice of said motion herein, dated the same day, and after hearing Edward W. Sheldon, Esq., of counsel for respondent, in support of said motion, and Julius Offenbach, of counsel for the comptrollers of the city and State of New York, in opposition thereto, and due deliberation having been had,

On motion of Julius Offenbach, attorney for the said comptrollers, it is

Ordered, that said motion be, and the same hereby is denied.

(A copy.)

ALFRED WAGSTAFF,
Clerk Appellate Division, Supreme Court,
First Department.

(Endorsed:) Filed Jan. 29, 1902. Alfred Wagstaff, clerk, appellate division, supreme court, first department.

[SEAL.]

145 Appellate Division of the Supreme Court, State of New York, First Judicial Department, Clerk's Office, New York County.

In the Matter of the Appraisal, &c., of the Property of TIMOTHY B. BLACKSTONE, Deceased.

ISABELLA F. BLACKSTONE, Individually and as Executrix, &c., of Timothy B. Blackstone, Deceased, Appellant;

COMPTROLLER OF THE CITY OF NEW YORK, Respondent.

I, Alfred Wagstaff, clerk of the appellate division of the supreme court in the first judicial department, do hereby certify that the foregoing are copies of the affidavits and notices of motions to dismiss the appeal herein, and for leave to appeal to the court of appeals, together with the orders made by said court in the above-entitled action or proceeding and duly entered in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said court at the city of New York this 28th day of April, 1902.

[SEAL.] (S'g'd) ALFRED WAGSTAFF, *Clerk.*

146 *Opinion of Appellate Division on Motion to Dismiss Appeal, Read on Behalf of Respondent.*

Supreme Court, Appellate Division, First Department.

In the Matter of the Transfer Tax upon the Estate of TIMOTHY B. BLACKSTONE, Deceased.

Memorandum.

Per curiam:

This motion should be denied. The comptroller of the city of New York having properly instituted these proceedings they must necessarily be conducted in his name, (notwithstanding that his powers and duties in relation thereto have devolved by law upon the comptroller of the State of New York,) until substitution of parties has been made.

Motion denied with costs.

December 13, 1901.

147 STATE OF NEW YORK, *ss.*:

Court of Appeals.

Pleas in the court of appeals held at the capitol, in the city of Albany, on the 24th day of June, in the year of our Lord one thousand nine hundred and two, before the judges of said court.

Witness, the Hon. Alton B. Parker, chief judge, presiding.

W. H. SHANKLAND, *Clerk.*

Remittitur, June 25th, 1902.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

Be it remembered, that on the 2nd day of May, in the year of our Lord one thousand nine hundred and two, Isabella F. Blackstone, individually and as executrix, &c., of Timothy B. Blackstone, deceased, the appellant in this proceeding, came here into the court of appeals, by Edward W. Sheldon, her attorney, and filed in the said court a notice of appeal and return thereto from the order of the appellate division of the supreme court in and for the first judicial department. And Comptroller of the City of New York, the respondent in said proceeding afterward appeared in said court of appeals by Julius Offenbach, his attorney.

Which said notice of appeal and the return thereto filed as aforesaid, are hereunto annexed.

148 Whereupon, the said court of appeals having heard this proceeding argued by Mr. Edward W. Sheldon, of counsel for the appellant, and by Mr. Julius Offenbach, of counsel for the respondent, and after due deliberation had thereon, did order and adjudge that the order of the appellate division of the supreme court appealed from herein, be, and the same hereby is affirmed, with costs. Motions to dismiss appeal and to correct the record denied, with costs.

And it was also further ordered, that the record aforesaid, and the proceedings in this court, be remitted to the surrogate's court of New York county, there to be proce-ded upon according to law.

Wherefore, it is considered that said order be, and the same hereby is, affirmed with costs, etc., etc., as aforesaid.

And hereupon, as well *as* the notice of appeal and return thereto aforesaid as the judgment of the court of appeals aforesaid, by them given in the premises are by the said court of appeals remitted into the surrogate's court of New York county, before the surrogates thereof, according to the form of the statute in such case made and provided, to be enforced according to law, and which record now remains in the said surrogate's court of etc., before the surrogates thereof, etc.,

W. H. SHANKLAND,

Clerk of the Court of Appeals of the State of New York.

149 Court of appeals, clerk's office, Albany, June 25th, 1902.

I hereby certify that the preceding record contains a correct transcript of the proceedings in said proceeding in the court of appeals, with the papers originally filed therein attached thereto.

[SEAL.] W. H. SHANKLAND, *Clerk.*

150 [Endorsed:] Court of appeals. In the matter of the appraisal under the act in relation to taxable transfers of property of the property of Timothy B. Blackstone, deceased. Remittitur. Edward W. Sheldon, attorney for appellant, 45 Wall street, borough of Manhattan, city of New York.

151 At a stated term of the surrogate's court held in and for the county of New York, at the county court-house in the borough of Manhattan, city of New York, on the 30th day of June, 1902.

Present: Hon. Abner C. Thomas, surrogate.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, having duly appealed to the court of appeals from the order herein of the appellate division of the supreme court for the first judicial department, entered in the office of the clerk of said court on the first day of March, 1902, which reversed the order herein of the surrogate's court of the county of New York, entered in the office of the clerk of said surrogate's court on the 26th day of July, 1901, and affirmed the order herein of said surrogate's court entered in the office of the clerk thereof on the 20th day of February, 1901, and the court of appeals having sent down the record of said appeal and the proceedings in said court to the surrogate's court of New York county, here to be proceeded upon according to law, whereby it appears

152 that upon said appeal the court of appeals ordered that said order of the appellate division of the supreme court, first department herein appealed from should be affirmed with costs of said appeal to the respondent, The Comptroller of the City of New York,

Now, on reading and filing the remittitur of the court of appeals herein, and the costs of the respondent on said appeal having been duly taxed at the sum of $139.68, *dollars*, and on motion of Julius Offenbach, attorney for the comptrollers of the State and city of New York, it is

Ordered, that said order of the court of appeals be, and the same hereby is made the order of this court, and that the order herein of the appellate division of the supreme court, first department, appealed from as aforesaid, be, and the same hereby is, affirmed, with one hundred and thirty-nine 68/100 dollars costs of said appeal, to the comptroller of the city of New York.

ABNER C. THOMAS, *Surrogate.*

Please take notice that the order of which the within is a copy, was, on the 30th day of June, 1902, duly entered and filed in the within-entitled action, in the office of the clerk of the court within named.

Dated, New York city, July 7th, 1902.

JULIUS OFFENBACH,
Attorney for Comptrollers of the State and City of New York, 27 Pine Str., New York City.

153 [Endorsed:] Surrogate's court, In the matter of the transfer tax upon the estate of Timothy B. Blackstone, deceased. Order and notice of entry. Julius Offenbach, attorney for State & city comptroller, 27–29 Pine street, New York city.

154 Surrogate's Court, County and State of New York.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

Petition for Writ of Error.

Comes now Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, late of the city of Chicago, in the State of Illinois, deceased, by her attorney, and complains that in the record and proceedings had in the above-entitled cause in the court of appeals of the State of New York, which is the highest court of law and equity in said State in which a decision could be had, and which has remitted the record and proceedings in said court to the surrogate's court for the county and State of New York, there to be proceeded upon according to law, and also in the rendition of the judgment or decree in the above-entitled cause in said surrogate's court for the county of New York on the 30th day of June, 1902, wherein was drawn in question the validity of a statute of said State and of an authority exercised
155 thereunder on the ground of their being repugnant to the Constitution or laws of the United States, and the decision was in favor of such their validity, manifest error hath happened to the great damage of the said Isabella F. Blackstone, individually and as executrix as aforesaid.

Wherefore the said Isabella F. Blackstone, both individually and as such executrix prays for the reversal of said judgment or decree, and for the allowance of a writ of error, and for such other orders and process as may cause such error to be corrected by the Supreme Court of the United States.

Dated this 31st day of July 1902.

ISABELLA F. BLACKSTONE,
Individually and as Executrix, &c., of Timothy B. Blackstone, Deceased,
By EDWARD W. SHELDON, *Her Attorney.*

Allowed Aug. 4, 1902.
R. W. PECKHAM,
Associate Justice of the Supreme Court of the United States.

156 [Endorsed:] Allowance. Surrogate's court. County and State of New York. In the matter of the appraisal under the act in relation to taxable transfers of property of the property of Timothy B. Blackstone, deceased. Petition for writ of error. Edward W. Sheldon, attorney for Isabella F. Blackstone, individ. &c., 45 Wall street, borough of Manhattan, city of New York.

157 Surrogate's Court, County and State of New York.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

Assignment of Errors.

Comes now Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, by Edward W. Sheldon, her attorney, and says that in the record and proceedings in the above-entitled matter there is manifest error in this, to wit:

First. That the property which was the subject of taxation in the above-entitled cause was situated in the State of Illinois, where Timothy B. Blackstone, the above-named decedent, resided at the time of his death, and where the said Isabella F. Blackstone, his wife, has ever since resided; that none of said property was situated in the State of New York at the time of said decedent's death, and that accordingly the tax laws of the State of New York have no application thereto, and the courts of the State of New York have no jurisdiction to assess a tax upon said property or upon the transfer or inheritance thereof or the succession thereto.

158 Second. That if the debts due said decedent at the time of his death from the United States Trust Company of New York, and the firm of Cuyler, Morgan & Company of the city of New York, which constitute the only property taxed herein, could be deemed for any purpose property then situated within the State of New York, that such property was only transitorily within said State, and that the courts of that State had no jurisdiction under section 8 or 10 of article I of the Constitution of the United States, or otherwise, to assess a tax thereon.

Third. That the statute of the State of New York relating to taxable transfers of property as applied to the facts and circumstances of this case, and the authority exercised under said statute, as interpreted by the decision and judgment herein, are unconstitutional and void on the ground that they are repugnant to section 10 of article I of the Constitution of the United States, in that said statute and authority impair the obligation of contracts between said Timothy B. Blackstone and the United States Trust Company of New York and Cuyler, Morgan and Company of New York.

Fourth. That said statute of the State of New York, as interpreted by said decision and judgment, and the authority exercised under said statute, are unconstitutional and void on the ground that they are repugnant to section 1 of article IV of the Constitution of the United

States, in that said statute and authority deny full faith and credit in the State of New York to the public acts, records and judicial proceedings of the State of Illinois under which the inher-
159 itance, succession or transfer tax upon the property which was the subject of this cause had been duly assessed, levied and paid.

Fifth. That said statute of the State of New York as interpreted by said decision and judgment, is unconstitutional and void on the ground that it is repugnant to section 2 of article IV of the Constitution of the United States, in that said statute deprives the plaintiff in error and other citizens of Illinois as well as citizens of other States of certain privileges and immunities of citizens of the State of New York.

Sixth. That said statute of the State of New York as interpreted by said decision and judgment, is unconstitutional and void on the ground that it is repugnant to section 1 of article XIV of the Constitution of the United States, in that the said statute abridges the privileges and immunities of the plaintiff in error, and of other citizens of the United States, deprives said citizens of their property without due process of law, and denies to said citizens the equal protection of the laws.

Seventh. That the court should have dismissed the proceeding to impose a transfer tax upon the property in question.

Wherefore the said Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, as aforesaid, prays that the judgment and decision herein of the court of appeals of the State of New York, and the judgment or decree rendered by the surrogate's court of the county
160 and State of New York on the remittitur of said court of appeals of the State of New York, be reversed, and that said proceeding be dismissed.

Dated July 31, 1902.

EDWARD W. SHELDON,

Attorney for Isabella F. Blackstone, Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased.

161 [Endorsed:] Surrogate's court, county and State of New York. In the matter of the appraisal under the act in relation to taxable transfers of property of the property of Timothy B. Blackstone, deceased. Assignment of errors. Edward W. Sheldon, attorney for Isabella F. Blackstone, individ. &c., 45 Wall street, borough of Manhattan, city of New York.

162 Surrogate's Court, County and State of New York.

In the Matter of the Appraisal, under the Act in Relation to Taxable Transfers of Property, of the Property of TIMOTHY B. BLACKSTONE, Deceased.

Bond.

Know all men by these presents that we, Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, as principal, and the American Surety Company, as surety, are held and firmly bound unto Nathan L. Miller, comptroller of the State of New York, and Edward M. Grout, comptroller of the city of New York, or their successors, in the sum of one thousand dollars, for the payment of which well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals. Dated the 31st day of July, one thousand nine hundred and two.

Whereas, the above-named Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B.
163 Blackstone, deceased, has sued out a writ of error to the Supreme Court of the United States to review the record and proceedings of the court of appeals of the State of New York in the above-entitled cause, and to reverse the judgment or decree of the surrogate's court of the county of New York entered in said cause on the 30th day of June, 1902.

Now, therefore, the condition of the above obligation is such that if the above-bounded Isabella F. Blackstone shall prosecute said writ of error to effect and shall answer all damages and costs, if she shall fail to make good her plea, then the above obligation shall be void, otherwise to remain in full force and virtue.

ISABELLA F. BLACKSTONE,
Individually and as Executrix of the Last Will and Testament of Timothy B. Blackstone, Deceased,
By EDWARD W. SHELDON, *Her Attorney.*
AMERICAN SURETY COMPANY OF NEW YORK,
[L. S.] By DAVID B. SICKELS, *Vice-President.*
CORTLANDT S. VAN RENSSELAER, *Attorney.*

164 STATE AND COUNTY OF NEW YORK, *ss:*

On this 1st day of August, 1902, before me personally appeared David B. Sickels, vice-president of the American Surety Company of New York, to me known, who being by me duly sworn, did depose and say that he resided in the city of New York; that he is the vice-president of the American Surety Company of New York, the corporation described in and which executed the above instrument; that he knew the corporate seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the board of directors of said corporation, and

that he signed his name thereto by like order; and that the liabilities of said corporation do not exceed its assets as ascertained in the manner provided by law. And the said David B. Sickels, further said that he was acquainted with Cortlandt S. Van Rensselaer, and knew him to be one of the attorneys of said corporation, that the signature of said Cortlandt S. Van Rensselaer, subscribed to the said instrument, is in the genuine handwriting of the said Cortlandt S. Van Rensselaer, and was thereto subscribed by the like order of the said board of directors, and in the presence of him the said David B. Sickels, vice-president.

WM. H. BISHOP,
[L. S.] *Notary Public, New York County.*

At a regular quarterly meeting of the board of trustees of the American Surety Company of New York, held on the 12th day of April, 1893, the following resolution was adopted:

"*Resolved*, That the president and vice-presidents be and they hereby are, and each one of them is authorized and empowered to execute and deliver, and attach the seal of the company to any and all bonds and undertakings for, or on behalf of the company, in its business of guaranteeing the performance of contracts other than insurance policies, and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings by law allowed; such guarantee, bonds and undertakings, however, to be attested in every instance by the secretary, one of the assistant secretaries, or one of the attorneys."

COUNTY OF NEW YORK, *ss:*

I, Cortlandt S. Van Rensselaer, attorney of the American Surety Company of New York, have compared the foregoing resolution with the original thereof, as recorded in the minute book of said company, and do certify that the same is a correct and true transcript therefrom, and of the whole of said original resolution.

Given under my hand and the seal of the company at the city of New York, this 1st day of August, 1902.

[L. S.] CORTLANDT S. VAN RENSSELAER, *Attorney.*

165 [Endorsed:] Surrogate's court, county and State of New York. In the matter of the appraisal under the act in relation to taxable transfers of property of the property of Timothy B. Blackstone, deceased. Bond. Edward W. Sheldon, attorney for Isabella F. Blackstone, individ. &c. 45 Wall street, borough of Manhattan, city of New York.

The within bond is hereby approved as to form, amount, and sufficiency of surety.

Dated August 4, 1902.

R. W. PECKHAM,
Associate Justice of the Supreme Court of the United States.

166 *Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the surrogates of the county of New York, State of New York, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said surrogate's court in and for the county of New York, State of New York, before you or one of you, having been remitted to you by the court of appeals of said State, being the highest court of law or equity of the said State in which a decision could be had in the said suit entitled In the matter of the appraisal under the act in relation to taxable transfers of property, of the property of Timothy B. Blackstone, deceased, wherein was drawn in question the validity of a treaty, or statute, of, or an authority exercised under, the United States and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution of, or of a treaty or statute of, or commission held under, the United States, and the decision was against the title, right, privilege or exemption, specially set up or claimed under such clause of the said Constitution, treaty,
167 statute or commission, a manifest error hath happened, to the great damage of Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, as by her complaint appears, we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in said Supreme Court, at Washington within 30 days from the date hereof, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States the 6th day of Aug. in the year of our Lord one thousand nine hundred and two.

[Seal of U. S. Circuit Court, South. Dist. New York.]

JOHN A. SHIELDS,
Clerk of the Circuit Court of the United States for the Southern District of New York.

Allowed by
R. W. PECKHAM,
Associate Justice of the Supreme Court of the United States.

Aug. 4, 1902.

168 [Endorsed:] Writ of error.

169 *Citation.*

UNITED STATES OF AMERICA, *ss:*

To Nathan L. Miller, comptroller of the State of New York, and Edward M. Grout, comptroller of the city of New York, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the surrogate's court in and for the county of New York wherein Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, is plaintiff in error, and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Rufus W. Peckham, associate justice of the Supreme Court of the United States, this 4th day of August in the year of our Lord one thousand nine hundred and two.

R. W. PECKHAM,
Associate Justice of the Supreme Court of the United States.

170 STATE OF NEW YORK, }
County of New York, } *ss:*

Malcolm V. Ryan being duly sworn, says that he is a clerk in the office of Edward W. Sheldon, the attorney for the plaintiff in error herein, and that he is over twenty-one years of age; that he served the annexed citation upon Nathan L. Miller, comptroller of the State of New York, by handing a copy thereof to Willis C. Merriman, second deputy and acting comptroller of the State of New York, and leaving it with him. That the said service was made on Thursday August 7th, 1902, between the hours of 12 m. and 1 p. m. at the offices of the comptroller of the State of New York, at the State Department building on Eagle street, in the city of Albany, State of New York. That deponent was there informed that the said Nathan L. Miller was absent from the said city and that the said Willis C. Merriman was acting as comptroller of the State of New York.

MALCOLM V. RYAN.

Sworn to before me this 8th day of August, 1902.

DANIEL MOYNAHAN,
Notary Public, Kings Co.

Cert. filed N. Y. Co.

171 STATE OF NEW YORK, } ss.:
County of New York, }

Albert Wick being duly sworn, says that he is a clerk in the office of Edward W. Sheldon, the attorney for the plaintiff in error herein and that he is over twenty one years of age; that he served the annexed citation upon Edward M. Grout, comptroller of the city of New York, by handing a copy thereof to James W. Stevenson, deputy and acting comptroller of the city of New York, and leaving it with him. That the said service was made on Wednesday August 6, 1902, between the hours of 12 m. and 1 p. m. at the offices of the comptroller of the city of New York; at number 280 Broadway, borough of Manhattan, city of New York. That deponent was there informed that the said Edward M. Grout was absent from the said city and that the said James W. Stevenson was then acting as comptroller of the city of New York. That as deponent is further informed and believes the said Edward M. Grout sailed from the city of New York for Europe on the 26th day of July, 1902, for an absence of several weeks and is not now within the United States.

ALBERT WICK.

Sworn to before me this 6th day of August, 1902.

DANIEL MOYNAHAN,
Notary Public, Kings Co.

Cert. filed N. Y. Co.

172 & 173 [Endorsed:] Citation.

Due service of the within citation is admitted this 7th day of August, 1902.

JULIUS OFFENBACH,
Att'y for State Comptroller and City Comptroller.

174 STATE OF NEW YORK, ss.:

Court of appeals, State reporter's office.

I, Edwin A. Bedell, reporter of the court of appeals of the State of New York, do hereby certify that I have compared the following copy of the decision handed down by the court of appeals June 24, 1902, In the matter of the appraisal under the act in relation to taxable transfers of property of the property of Timothy B. Blackstone, deceased, with the original on file in this office, and that such copy is a correct transcript of said decision handed down by the court of appeals in the said matter, to wit:

"Order affirmed, with costs, on the ground that this case is controlled by the matter of Houdayer (150 N. Y., 37). Motions to dismiss appeal and to correct record denied, without costs. No opinion.

Concur, Parker, Ch. J., Gray, Haight, Vann, Cullen and Werner, JJ. Dissenting, O'Brien, J."

Seal Court of Appeals, State of New York.

In witness whereof I have hereunto set my hand and affixed the seal of the court of appeals at the city of Albany, this 30th day of July, A. D. 1902.

EDWIN A. BEDELL,
State Reporter,

Per C.

175 All which we have caused by these presents to be exemplified, and the seal of our said surrogate's court to be hereunto affixed.

Witness, Hon. Abner C. Thomas, a surrogate of the county of New York, at the city of New York, the thirteenth day of August, in the year of our Lord one thousand nine hundred and two, and of our Independence the one hundred and twenty-seventh.

[New York Surrogate's Seal.]

J. FAIRFAX McLAUGHLIN,
Clerk of the Surrogate's Court.

I, Abner C. Thomas, a surrogate of said county, and presiding magistrate of the surrogate's court, do hereby certify that J. Fairfax McLaughlin, whose name is subscribed to the preceding exemplification, is the clerk of said surrogate's court of the county of New York, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said surrogate's court, and that the attestation thereof is in due form, and according to the form of attestation used in this State.

Dated New York, August 13th, 1902.

ABNER C. THOMAS, *Surrogate.*

STATE OF NEW YORK, }
County of New York, } *ss:*

I, J. Fairfax McLaughlin, clerk of the surrogate's court of the county of New York, do hereby certify that Hon. Abner C. Thomas, whose name is subscribed to the preceding certificate, is the presiding magistrate of the surrogate's court of the county of New York, duly elected, sworn and qualified, and that the signature of said magistrate to said certificate is genuine.

In witness whereof, I have hereto set my hand and affixed the seal of the said court, this 13th day of August 1902.

[New York Surrogate's Seal.]

J. FAIRFAX McLAUGHLIN,
Clerk of the Surrogate's Court.

176 [Endorsed:] Surrogate's court, county of New York. In the matter of the estate of Timothy Blackstone, deceased. (Exemplified copy.) Filed —— of ——, 190–.

Endorsed on cover: File No. 18,651. New York, New York county surrogate's court. Term No. 423. Isabella F. Blackstone, individually and as executrix of the last will and testament of Timothy B. Blackstone, deceased, plaintiff in error, *vs.* Nathan L. Miller, comptroller of the State of New York, and Edward M. Grout, comptroller of the city of New York. Filed August 19, 1902.